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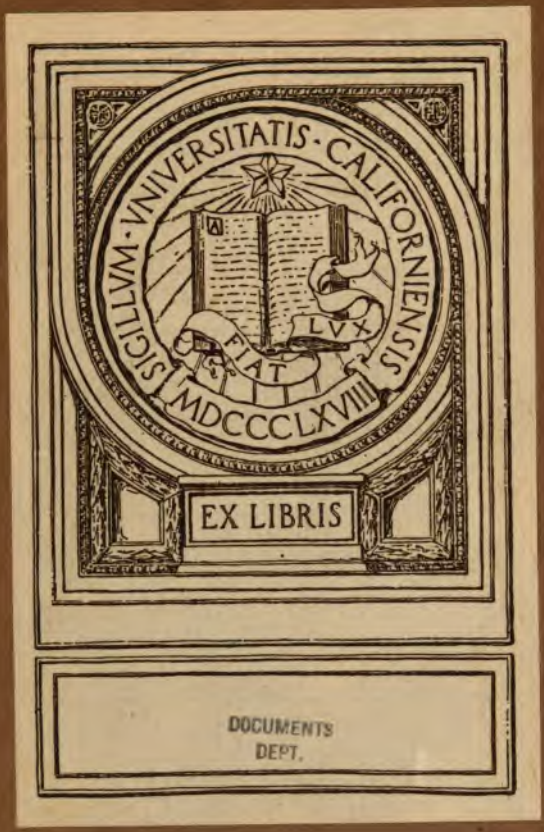

DOCUMENTS
DEPT.

JOURNAL

OF THE

CONVENTION FOR FRAMING

A

CONSTITUTION OF GOVERNMENT

FOR THE

State of Massachusetts Bay,

FROM THE COMMENCEMENT OF THEIR FIRST SESSION,

SEPTEMBER 1, 1779,

TO THE CLOSE OF THEIR LAST SESSION,

JUNE 16, 1780.

INCLUDING A LIST OF THE MEMBERS.

WITH AN APPENDIX—CONTAINING

1. THE RESOLVE FOR ASCERTAINING THE SENSE OF THE PEOPLE ON THE SUBJECT OF A NEW CONSTITUTION.
2. THE FORM OF GOVERNMENT ORIGINALLY REPORTED BY THE GENERAL COMMITTEE OF THE CONVENTION.
3. THE ADDRESS TO THE PEOPLE.
4. THE CONSTITUTION AS FINALLY AGREED UPON BY THE CONVENTION, AND RATIFIED BY THE PEOPLE, WITH THE AMENDMENTS SINCE ADOPTED.
5. THE REJECTED CONSTITUTION OF 1778.

PUBLISHED BY ORDER OF THE LEGISLATURE.

Boston:

DUTTON AND WENTWORTH, PRINTERS TO THE STATE.

1832.

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IN SENATE, MARCH 22, 1832.

THE JOINT COMMITTEE ON THE LIBRARY, to whom was referred the Order of the Senate, of the 10th inst. directing them to enquire into the expediency of causing a copy to be made of the Journals of the Convention of seventeen hundred and eighty, have considered the same, and report the following Resolve.

Which is respectfully submitted,

By order of the Committee,

A. H. EVERETT.

424980

Commonwealth of Massachusetts.

In the Year of our Lord, One Thousand Eight Hundred and Thirty-Two.

A RESOLVE

Providing for the Copying of the Journals of the Convention of One Thousand Seven Hundred and Eighty.

RESOLVED, *by the Senate and House of Representatives, in General Court assembled*, That the Secretary of the Commonwealth be, and he is hereby authorized and directed, to cause a fair copy to be made of the Journals of the Convention, that was held in the year one thousand seven hundred and eighty, for the purpose of forming a Constitution of Government for this Commonwealth; and of such Reports and Documents remaining on the files of the same, as it may appear most important to preserve, including the Address to the People:—And the Secretary is further authorized and directed to cause one thousand copies of the said Journal and Documents to be printed, at the expense of the Commonwealth, and to transmit one copy to each of the Towns in the Commonwealth, and to the City of Boston.

IN SENATE, MARCH 22, 1832.

Read twice and passed,

Sent down for concurrence,

WILLIAM THORNDIKE, *President.*

HOUSE OF REPRESENTATIVES, MARCH 23, 1832.

Read twice and passed,

W. B. CALHOUN, *Speaker.*

MARCH 24, 1832.

Approved,

LEVI LINCOLN.

A true copy,

Attest. EDWARD D. BANGS,

Secretary of the Commonwealth.

UNIV. OF CALIFORNIA

PROCEEDINGS

OF THE

CONVENTION

FOR FORMING A

CONSTITUTION OF GOVERNMENT

FOR THE

State of Massachusetts Bay,

FROM SEPTEMBER 1, 1779, TO JUNE 16, 1780.

RESOLVE

Recommending a Convention.

STATE OF MASSACHUSETTS BAY.

IN THE HOUSE OF REPRESENTATIVES, June 15, 1779.

WHEREAS, by the returns made into the Secretary's Office, from more than two thirds of the Towns belonging to this State, agreeably to a Resolve of the General Court, of the 20th of February last,* it appears, that a large majority of the inhabitants of such Towns, as have made return as aforesaid, think it proper to have a new Constitution or form of Government, and are of opinion, that the same ought to be formed by a Convention of Delegates, who should be specially authorized to meet for this purpose,

Therefore Resolved, That it be, and it hereby is recommended to the several inhabitants of the several Towns in this State to form a Convention, for the sole purpose of framing a new Constitution, consisting of such number of Delegates, from each Town throughout this State, as every different Town is entitled to send Representatives to the General Court, to meet at Cambridge, in the County of Middlesex, on the first day of Septem-

* See Appendix.

ber next. And the Selectmen of the several Towns and Places within this State, empowered by the laws thereof to send members to the General Assembly, are hereby authorized and directed to call a meeting of their respective Towns, at least fourteen days before the meeting of said Convention, to elect one or more Delegates, to represent them in said Convention, at which meeting, for the election of such Delegate or Delegates, every Freeman, Inhabitant of such town, who is twenty one years of age, shall have a right to vote.

Be it also Resolved, That it be, and it hereby is recommended, to the Inhabitants of the several Towns in this State, to instruct their respective Delegates, to cause a printed copy of the Form of a Constitution they may agree upon in Convention, to be transmitted to the Selectmen of each Town, and the Committee of each Plantation; and the said Selectmen and Committees are hereby empowered and directed to lay the same before their respective Towns and Plantations, at a regular Meeting of the Male Inhabitants thereof, being free and twenty one years of age, to be called for that purpose, in order to its being duly considered and approved or disapproved by said Towns and Plantations. And it is also recommended to the several Towns within this State, to instruct their respective Representatives to establish the said Form of a Constitution, as the Constitution and Form of Government of the State of Massachusetts Bay, if, upon a fair examination, it shall appear, that it is approved of by at least two thirds of those, who are free and twenty one years of age, belonging to this State, and present in the several meetings.

Sent up for concurrence,

JOHN HANCOCK, *Speaker.*

In Council, June 17, 1779.

Read and concurred,

JOHN AVERY, *Dep'y Sec'y.*

Consented to by a Major Part of the Council.

A True Copy,

Attest, JOHN AVERY, *Dep'y Sec'y.*

PROCEEDINGS OF THE CONVENTION, begun and held at Cambridge, in the County of Middlesex, on the first day of September, A. D. 1779, *in conformity to the preceding Resolve of the Great and General Court of the State of the Massachusetts Bay, passed the* 17*th of June last, for the sole purpose of framing a new Constitution of Government for said State.*

A. M. WEDNESDAY, 1st Sept. 1779.

A large number of Delegates being convened,

On a motion made and seconded,

Voted, That a President and Secretary be chosen by Ballot.

On a motion made and seconded,

Voted, That a Committee be chosen to receive and sort the votes.

Voted, That the Committee consist of three.

Voted, That NATHANIEL GORHAM, Esq.,
COL. DAWES, and
BRIG'R. BROOKS, be a Committee for this purpose.

On a motion made and seconded,

Voted, That the Convention first proceed to the choice of a Secretary.

The Committee aforesaid accordingly proceeded to receive and sort the votes.

The Committee having reported, it appeared that Samuel Barrett was chosen Secretary.

On a motion made and seconded,

Voted, That the Convention now proceed to the choice of a President.

The Committee aforesaid accordingly proceeded to receive and sort the votes.

The Committee having reported, it appeared that the Honorable JAMES BOWDOIN, Esq., was chosen President.

It was then moved, that the Person usually attending the Meeting House as Servitor or Door Keeper, be directed, and he was accordingly directed, to give his attendance, as Servitor and Door Keeper to the Convention.

On a motion,

Voted, That the several Delegates produce Certificates or other Credentials of their choice or appointment to represent the several Towns in this Convention, the same to be laid before the Convention.

On a motion made and seconded,

Voted, That the Hon'l WALTER SPOONER, and the Hon'l SAMUEL ADAMS, Esq., be a Committee to receive and declare the same.

Which being done, it appeared that the following gentlemen were duly returned to represent the several Towns and Plantations within this State, in this Convention, viz.

FOR THE COUNTY OF SUFFOLK.

Boston,	The Hon'ble James Bowdoin, Esq.
	The Hon. Sam'l Adams, Esq.
	The Hon. John Hancock, Esq.
	The Hon. Oliver Wendell, Esq.
	Nathaniel Appleton, Esq.
	Sam'l A. Otis, Esq.
	Ellis Gray, Esq.
	Thomas Dawes, Esq.
	John Lowell, Esq.
	Doctor Charles Jarvis,
	Ebenezer Storer, Esq.
	Samuel Barrett, Esq.
Roxbury,	Increase Sumner, Esq.
Dorchester,	Mr. Samuel Coolidge,
Milton,	Mr. Edw'd Hutchinson Robbins,
	Samuel Henshaw, Esq.,
Braintree,	The Hon. John Adams, Esq.
Weymouth,	The Hon. James Humphreys, Esq.
Hingham,	The Rev. Daniel Shute,
	Mr. Joseph Thaxter, jr.
Cohasset,	
Dedham,	Rev. Jason Haven,
	Doct. John Sprague,
Medfield,	Doct. James Jerould,

Wrentham,	Mr. Thomas Man,
	Mr. Lemuel Kollock,
Brookline,	Major William Thomson,
Needham,	
Stoughton,	Rev. Jedediah Adams,
Stoughtonham,	Mr. Royal Kollock,
Medway,	Rev. Daniel Stanford,
Bellingham,	Mr. Noah Alden,
Hull,	
Walpole,	Joshua Clap, Esq.,
Chelsea,	Capt. Jonathan Green,
Franklin,	The Hon. Jabez Fisher, Esq.
Foxborough,	Mr. John Everett.

FOR THE COUNTY OF ESSEX.

Salem,	The Hon'ble John Pickering, Esq.
	Mr. William Pickman,
	Mr. Henry Higginson,
	Mr. Joseph Orne,
	Mr. Miles Greenwood,
	Mr. Benjamin Goodhue, jr.
Ipswich,	Dummer Jewett, Esq.
	Stephen Choate, Esq.
	Col. Jonathan Cogswell,
	Mr. Daniel Noyce,
	Mr. John Crocker,
Newbury,	Enoch Sawyer, Esq.
	Mr. Richard Adams,
	Mr. Ebenezer March,
Newburyport,	The Hon. Benjamin Greenleaf, Esq.
	The Hon. Jonathan Greenleaf, Esq.
	Mr. Jonathan Jackson,
	Mr. Nathaniel Tracy,
	Theophilus Parsons, Esq.
Marblehead,	
Lynn,	Mr. Samuel Burrill,
Andover,	Samuel Osgood, Esq.
	Mr. Samuel Phillips, jr.

Andover,	Mr. John Farnum, jr.
	Mr. Zebediah Abbott,
Beverly,	Mr. George Cabot,
	Mr. Joseph Wood,
Rowley,	Nathaniel Mighill, Esq.,
	Col. Daniel Spafford,
	Doct. Parker Cleaveland,
Salisbury,	Maj. Joseph Page,
Haverhill,	The Hon. Nath. Peaslee Sergeant, Esq.
Gloucester,	Winthrop Sergeant, Esq.
	Col. Joseph Foster,
	Peter Coffin, Esq.
	Samuel Whitemore, Esq.
	Capt. Epes Sergeant.
Topsfield,	Mr. Israel Clarke, jr.
	Mr. Abraham Hobbs,
Amesbury,	Mr. John Barnard,
Bradford,	Mr. Peter Russell,
Methuen,	Mr. John Sergeant,
Boxford,	
Wenham,	
Manchester,	
Middleton,	Mr. Silas Meriam,
Danvers,	Hon. Samuel Holton, Esq.
	Amos Putnam, Esq.
	Col. Israel Hutchinson,
	Capt. William Shillaber.

FOR THE COUNTY OF MIDDLESEX.

Cambridge,	Abraham Watson, Esq.
	Mr. Benjamin Cooper,
	Capt. Stephen Dana,
Charlestown,	Nath'l. Gorham, Esq.
Watertown,	Samuel Fisk, Esq.
	Jonathan Brown, Esq.
Woburn,	Doct. Samuel Blodgett,
Concord,	John Cummings, Esq.
	Ephraim Wood, Esq.

Newton,	Dr. John King,
	Mr. Thomas Parker,
Reading,	Mr. Benjamin Flynt,
Marlborough,	Col. Edward Barnes,
	Mr. Moses Wood,
	Mr. Winslow Bridgham,
Billerica,	Rev. Henry Cummings,
Framingham,	The Hon'ble Josiah Stone, Esq.
	Benjamin Edwards, Esq.
Lexington,	Rev. Jonas Clarke,
Chelmsford,	Col. Simeon Spaulding,
	Oliver Barron, Esq.,
Sherburne,	Daniel Whitney, Esq.
Sudbury,	Col. Ezekiel How,
Malden,	Rev. Peter Thatcher,
Weston,	Mr. Joseph Roberts,
	Mr. John Allen,
Medford,	Stephen Hall, Tertius, Esq.
Hopkinton,	Mr. Matthew Metcalf,
Westford,	Dr. Asaph Fletcher.
Waltham,	Jonas Dix, Esq.
	Capt. John Clarke,
Stow,	Mr. Abraham Whitney,
Groton,	The Hon. James Sullivan, Esq.
Shirley,	
Pepperell,	
Townsend,	Mr. James Locke,
Dracut,	Mr. Amos Bradley,
Bedford,	John Reed, Esq.
Holliston,	Capt. Staples Chamberlain,
Acton,	Francis Faulkner, Esq.
Dunstable,	The Hon. John Tyng, Esq.
Lincoln,	Brig. Gen. Eleazer Brooks, Esq.
Wilmington,	
Tewksbury,	Mr. William Brown,
Ashby,	
Littleton,	Capt. Aaron Jewett,
Natick,	Major Hezekiah Broad,
Stoneham,	

FOR THE COUNTY OF WORCESTER.

Worcester,	The Hon. Levi Lincoln, Esq.
	Joseph Allen, Esq.
	Mr. David Bigelow,
Lancaster,	William Dunsmore, Esq.
	Capt. Ephraim Wilder,
	Capt. William Putnam,
Mendon,	Joseph Dorr, Esq.
	Capt. Peter Penniman,
Brookfield,	The Hon'ble Jedediah Foster, Esq.
Oxford,	Ebenezer Learned, Esq.
	Mr. Ezra Bowman,
Charlton,	Jacob Davis, Esq.
	Mr. Salem Town,
	Capt. Samuel Lamb,
Sutton,	Mr. David Harwood,
	Mr. Nathan Putnam,
	Mr. Willis Hall,
	Rev. Ebenezer Chaplin,
	Mr. Ebenezer Peirce,
Leicester,	Major Seth Washburn,
	Col. William Henshaw,
Spencer,	Mr. John Biscoe,
Rutland,	John Frink, Esq.
Paxton,	Capt. Adam Maynard,
Oakham,	Capt. Isaac Stone.
Barre,	John Mason, Esq.
	Mr. Andrew Parker,
Hubbardston,	
New Braintree,	Maj. James Woods,
Southborough,	Doct. James Parker,
Westborough,	Capt. Stephen Maynard,
	Capt. Nathan Fisher,
Northborough,	Mr. Jonathan Livermore,
Shrewsbury,	Mr. Daniel Hemmenway,
Lunenburg,	Capt. George Kimball,
Fitchburg,	Capt. Thomas Cowdin,

Uxbridge,	Col. Seth Reed,
	Mr. Benjamin Green,
Harvard,	Mr. Oliver Whitney,
Dudley,	Mr. Joseph Upham,
Bolton,	Mr. Ephraim Fairbanks,
Upton,	Rev. Elisha Fisk,
Sturbridge,	Mr. Joshua Harding,
	Capt. Abel Mason,
Leominster,	Israel Nichols, Esq.
Hardwick,	Mr. William Page,
	Brig. Gen. Jonathan Warner,
	Mr. John Hastings,
Holden,	
Western,	Col. Danforth Keys,
Douglas,	Mr. Eliphaz Stearns,
Grafton,	Capt. Luke Drury,
Petersham,	Col. Ephraim Doolittle,
	Mr. Ruggles Spooner,
	Mr. Samuel Bryant,
Royalston,	Mr. Sylvanus Hemmenway,
	Mr. Abner Holden,
Westminster,	Mr. Joseph Miller,
Athol,	Capt. Ephraim Stockwell,
	Mr. Josiah Goddard,
Templeton,	Capt. John Richardson,
	Mr. Joel Grout,
Princeton,	Asa Whitcomb, Esq.
Ashburnham,	
Winchendon,	Abel Wilder, Esq.
Woodstock,	
Northbridge,	Mr. Jonathan Bacon,
Ward,	

FOR THE COUNTY OF HAMPSHIRE.

Springfield,	Mr. Luke Bliss,
	William Pyncheon, Esq.
West Springfield,	Abraham Burbank, Esq.
Wilbraham,	Capt. Phineas Stebbins,

Northampton,	Mr. Ephraim Wright,
	Caleb Strong, Esq.
Southampton,	Capt. Timothy Clarke,
Hadley,	
South Hadley,	The Hon. Noah Goodman, Esq.
Amherst,	Mr. John Billing,
Granby,	
Hatfield,	Doct. Elijah Morton,
Whately,	
Williamsburg,	Mr. William Bodman,
Westfield,	Col. John Moseley,
Deerfield,	
Greenfield,	Capt. Agrippa Wells,
Shelburne,	Mr. Ebenezer Fisk,
Conway,	
Sunderland,	
Montague,	
Northfield,	Capt. Thomas Alexander,
Brimfield,	
South Brimfield,	Mr. William Carpenter,
Monson,	Major Reuben Mun,
Pelham,	Mr. Joseph Packard,
Greenwich,	Major Barnabas Sears,
	Mr. Caleb West,
Blandford,	
Leverett,	Major Richard Montague,
Palmer,	Mr. Joshua Shaw,
Granville,	Mr. Oliver Phelps,
New Salem,	
Belchertown,	Mr. Joseph Smith,
Colraine,	Major Hezekiah Smith,
Ware,	
Warwick,	Mr. Thomas Rich,
Bernardston,	
Murrayfield,	
Charlemont,	
Ashfield,	Capt. Benjamin Phillips,
	Capt. Samuel Bartlett,
Worthington,	Mr. Seth Sylvester,

Shutesbury,	Mr. William Ewens,
Chesterfield,	Capt. William White,
	Mr. Luke Bonney,
Chesterfield Gore,	Capt. Thomas Weeks,
Southwick,	Mr. Abner Fowler,
Suffield,	
Enfield,	
Somers,	
Ludlow,	
Norwich,	
Merryfield,	
Plantation, No. 5,	
Gageborough,	
West Hampton,	Mr. Sylvester Judd.

FOR THE COUNTY OF PLYMOUTH.

Plymouth,	John Cotton, Esq.
Scituate,	The Hon. William Cushing, Esq.
	Israel Vinal, Esq.
	William Turner, Esq.
Duxbury,	
Marshfield,	Capt. Thomas Waterman,
Bridgewater,	Benjamin Willis, Esq.
	Capt. Nathan Mitchell,
Middleborough,	Mr. John Miller,
	Capt. William Shaw,
Rochester,	Capt. Nathaniel Hammond,
Plympton,	Major Seth Cushing,
	Capt. George Hammond,
Pembroke,	Rev. Gad Hitchcock,
Kingston,	
Hanover,	Hon. Joseph Cushing, Esq.
Abington,	Col. David Jones,
Halifax,	Ebenezer Thomson, Esq.
Wareham,	

FOR THE COUNTY OF BARNSTABLE.

Barnstable,	
Sandwich,	Mr. Lot Nye,
Yarmouth,	Enoch Hallet, Esq.
Eastham,	
Harwich,	
Wellfleet,	
Chatham,	
Truro,	
Falmouth,	

FOR THE COUNTY OF BRISTOL.

Taunton,	The Hon. Robert Treat Paine, Esq.
	Brig. General George Godfrey, Esq.
Rehoboth,	William Winsor, Esq.
	Capt. Stephen Bullock,
Swansey with Shawammet,	Capt. Philip Slead,
	Mr. John Mason,
Dartmouth,	The Hon. Walter Spooner, Esq.
	Rev. Samuel West,
	Mr. Timothy Davis,
Norton,	Mr. Abraham White,
Mansfield,	Mr. Isaac Dean,
Attleborough,	Col. John Daggett,
	Capt. John Stearns,
	Major Elisha May,
Dighton,	Thomas Church, Esq.
	Mr. William Brown,
Freetown,	Mr. Samuel Barnaby,
Raynham,	Capt. Israel Washburn,
Easton,	Capt. James Perry,
Berkley,	Samuel Toby, Esq.

FOR THE COUNTY OF YORK.

York,	The Hon. David Sewall, Esq.
Kittery,	Capt. John Heard Bartlett,
Wells,	Nathaniel Wells, Esq.

Berwick, The Hon. Benjamin Chadbourne, Esq.
Arundel,
Biddeford,
Pepperellborough,
Lebanon,
Sanford,
Buxton,
Fryburgh,
Cox Hall,
Massabeseck,
Limerick,
Brownfield,
Little Falls,

FOR DUKES COUNTY.

Edgarton,
Chilmark,
Tisbury,

FOR THE COUNTY OF NANTUCKET.

Sherburne,

FOR THE COUNTY OF CUMBERLAND.

Falmouth,
North Yarmouth,
Cape Elizabeth,
Gorham, Solomon Lombard, Esq.
Brunswick,
Harpswell,
Windham,
New Gloucester,
Scarborough, Mr. Samuel Small,
Peirsontown,
Royalsburg,
Gray,
Raymondtown,
Bakerstown,
Sylvester's Town,
Bridgetown,

FOR THE COUNTY OF LINCOLN.

Pownalborough,	
Georgetown,	
Newcastle,	
Woolwich,	
Topsham,	
Bowdoinham,	
Boothbay,	
Bristol,	Mr. Jacob Eaton,
Vassalborough,	
Winthrop,	Mr. Benjamin Brainard.
Winslow,	
Waldoborough,	
Edgecomb,	
Hallowell,	
Belfast,	
Warren,	
Thomaston,	
Lower St. Georges,	
Meduncook,	
Pittstown,	

FOR THE COUNTY OF BERKSHIRE,

Sheffield,	Mr. Silas Kellog,
Great Barrington,	Doct. William Whiting,
Patridgefield,	Mr. Daniel Kinney,
Williamstown,	Capt. Stephen Davis,
	Mr. Elisha Baker,
New Marlborough,	Capt. Zenas Wheeler,
	Jabez Ward, Esq.
Lanesborough,	Col. Jonathan Smith,
	James Harris, Esq.
Pittsfield,	William Williams, Esq.
Lenox,	Capt. William Walker,
	Mr. Caleb Hyde,
Stockbridge,	Mr. Elias Gilbert,
	Mr. Asa Bement,
Egremont,	Ephraim Fitch, Esq.

Tyringham,	Capt. Ezekiel Herrick,
Sandisfield,	Mr. James Ayrault,
	Mr. David Deming,
Becket,	Mr. Elisha Carpenter,
Windsor,	Mr. Hezekiah Green,
	Capt. Leicester Grosvenor,
Hancock,	Mr. Asa Douglass,
Richmond,	Mr. Cromstock Betts,
Loudon,	
Washington,	
West Stockbridge,	Capt. Increase Hewins,
Alford,	Mr. John Adams, jr.
New Ashford,	
Asheweelot,	
Plantation No. 7,	
Adams,	
New Providence,	Mr. Peter Werdin,
Lee,	

On a motion made and seconded,

Voted, That the further examination of the credentials be postponed to the afternoon, and that the Convention be adjourned to 3 o'clock.

Three o'clock, P. M. Met according to adjournment.

The Convention proceeded in the examination of the credentials, which, being completed, on a motion made,

Voted, That the Secretary be directed to prepare an exact List of the Delegates returned to this Convention.

On a motion made and seconded,

Voted, That the Secretary be permitted to furnish an attested copy of the List of Delegates to any person, who may apply for the same.

On a motion made and seconded,

Voted, That a number of Monitors be chosen to keep order, and to return the House as there may be occasion.

Voted, That the number be six.

Voted, That Major Washburn,
Col. Williams,

Capt. Kimball,
Mr. Kollock, of Wrentham,
Col. Cummings, and
Col. Coffin, be the Monitors.

On a motion, made and seconded,

Voted, That a Committee be appointed to prepare Rules for the Government of the Convention, and to report to-morrow morning.

Voted, That the Hon'ble John Pickering, Esq.
Nath'l Gorham, Esq.
The Hon'ble Noah Goodman, Esq.
The Hon'ble James Sullivan, Esq. and
Thomas Dawes, Esq. be a Committee for this purpose.

On a motion made for adjournment to 8 o'clock to-morrow morning, the Convention adjourned accordingly.

Thursday Morning, 2d Sept. 8 o'clock.

The Convention met according to adjournment.

The Committee, appointed to prepare Rules for the Government of the Convention in their debates and proceedings, made their Report;—which, after sundry amendments, was accepted; and the Secretary was directed to cause a fair Copy of the same to be posted up in some conspicuous part of the House, in order that the Members may have recourse to it for their direction and government on all occasions.

The Report, as amended and accepted, is as follows;—

RULES AND ORDERS to be observed by the Convention held at Cambridge, for the purpose of framing a New Constitution of Government for the State of Massachusetts Bay, agreeable to their Vote of the 2d September, 1779.

1st. The seat now occupied by any member shall be the seat of such member, during the Sitting of this Convention, unless such seat has previously been taken possession of by another Member.

2dly. No member shall speak more than twice to any question, without leave expressly obtained; nor more than once, until others, who have not spoken, shall have delivered their sentiments, if they shall desire it.

3dly. Any member, rising to speak, shall address himself to the President, and as soon as he has done speaking, he shall sit down.

4thly. No member speaking shall be interrupted by another, unless it be by calling to order, or to correct a mistake with respect to matter of fact; and no member shall stand up to the interruption of any one speaking, or to hinder other members from hearing the Delegates, or what is read by the President.

5thly. No member shall declare or scruple any vote, until the President shall have made his declaration thereon.

6thly. It shall be the duty of the Monitors to keep good order in the Convention, and when any vote is questioned, to make return of the numbers in their respective quarters or divisions, voting for or against the motion proposed.

7thly. When a motion shall be made by any member, and seconded by some other member, the same shall be considered as before the Convention, but not otherwise.

8thly. When a Vote is scrupled, it shall be determined by the numbers voting in the affirmative, and the numbers present in the Convention, unless any member shall be excused giving his Vote by the Convention.

9thly. No member shall nominate more than one person for one Committee, provided the person by him first nominated be chosen.

10thly. No Vote shall be reconsidered, unless there be as many of the members in the Convention, at the time of reconsideration, as there were when it was passed.

A Copy of the Resolves of the Great and General Court of the 15th and 17th June, ulto., recommending to the several towns in this State to convene, by their Delegates, at Cam-

bridge, on the first of September, then next ensuing, for the sole purpose of framing a new Constitution of Government, being read :—On a motion made and seconded,

Resolved, That it is the opinion of this Convention, that they have sufficient authority from the People of the Massachusetts Bay to proceed to the framing a new Constitution of Government, to be laid before them agreeably to their instructions.

On a motion, made and seconded,

Voted, That the Convention proceed, at the adjournment, to the consideration of a Declaration of Rights.

On a motion made and seconded,

Voted, That the Convention be adjourned to 3 o'clock, P. M.

The Convention was adjourned accordingly.

Three o'clock, P. M. Met according to adjournment.

The Convention, agreeably to their vote in the forenoon, entered upon the consideration of a Declaration of Rights.

On a motion, made and seconded,

Voted, That there be a Declaration of Rights prepared, previous to the framing a new Constitution of Government.

A motion was then made and seconded, that a Committee be appointed for that purpose.

After a very general and extensive debate, on a motion,

Voted, That the further consideration of the Declaration of Rights be postponed to the morning.

The Secretary, having acquainted the Convention that some previous engagements render his absence to-morrow necessary,

Voted, That he be excused attending ; and another gentleman be appointed to officiate in his absence.

Voted, That Joseph Allen, Esq., take the minutes of the Convention, during the absence of the Secretary.

The Convention then adjourned to the next morning, 8 o' clock.

Friday Morning, 8 o'clock, Sept. 3.

Met according to adjournment.

On a motion, made and seconded,

Ordered, that the bell be rung a quarter of an hour before the time to which this Convention shall from time to time be adjourned.

A motion was then made and seconded, that those gentlemen of the Clergy, who have seats in this Convention, be requested to open the Convention with Prayer, every morning, in rotation, which passed in the affirmative.

On a motion, made and seconded,

Voted, That there be a reconsideration of the vote passed yesterday, viz: "that there be a Declaration of Rights prepared previous to the framing a Constitution of Government."

Resolved, That the Convention will prepare a Declaration of Rights of the People of the Massachusetts Bay.

Upon this Question, the whole number present as returned by the Monitors, were 251, of which, 250 were for the affirmative.

A motion was then made and seconded, as follows, viz.

"*Resolved*, that this Convention will proceed to the framing a new Constitution of Government." After some debate thereon, a motion was made and seconded, that a Committee be appointed to prepare a Declaration of Rights, previous to the framing a new Constitution.

Whereupon a general debate ensued, and, after some time spent therein, the Convention postponed the further discussion of the same until 3 o'clock in the afternoon.

The Convention then adjourned to that time.

Three o'clock, P. M. The Convention met according to adjournment, and resumed the consideration of the motion made in the forenoon, viz. "That a Committee be appointed to prepare a Declaration of Rights, previous to the framing a new Constitution." After some further debates thereon, it passed in the negative.

The question was then put upon the motion made in the forenoon, viz.

"*Resolved*, That this Convention will proceed to the framing a new Constitution of Government," which passed in the affirmative.

Upon a motion made by the Hon'ble Gen. HANCOCK, it was

Voted, That a time be assigned for the Convention to proceed to the choice of a Committee to prepare a Declaration of Rights, and Frame of a Constitution.

Whereupon, twelve o'clock to-morrow, is assigned for the purpose aforesaid.

Upon a motion, made and seconded,

Voted, That a Committee of five persons be appointed, for the purpose of ascertaining the manner in which the Committee to be hereafter appointed to prepare a new Constitution of Government and Declaration of Rights, shall be chosen, the number of which it shall consist, and the number for each county.

The Convention then proceeded to the choice of a Committee for that purpose, and the following gentlemen were chosen, viz:

NATHANIEL GORHAM, Esq.
The Hon. Mr. PICKERING,
The Hon. Col. GOODMAN,
JOHN LOWELL, Esq. and
Major WASHBURN.

The Committee last appointed were desired to withdraw and proceed on the business for which they were chosen, and report as soon as may be.

Resolved, unanimously, That the Government, to be framed by this Convention, shall be a FREE REPUBLIC.

Upon a motion, made and seconded,

Voted, That the Committee appointed this afternoon, and who are now absent on the business assigned them, have liberty to accede to, or dissent from, the last preceding Resolution.

Resolved, That it is of the Essence of a free Republic, that the People be governed by FIXED LAWS OF THEIR OWN MAKING.

The Committee appointed this afternoon for the purpose of ascertaining the manner, in which the Committee, to be hereafter appointed to prepare a Frame of a Constitution and Declaration of Rights, shall be chosen, the number of which the same shall consist, and the number for each County, made Report as follows:

"The Committee appointed "*ut supra*," report as their opinion, That the Committee consist of thirty one, to be proportioned as follows:

For the County of			Suffolk, ...	3
"	"	"	" Essex, ...	2
"	"	"	" Middlesex, . . .	3
"	"	"	" Worcester, . . .	3
"	"	"	" Hampshire, . . .	3
"	"	"	" Bristol, ...	2
"	"	"	" York, ...	2
"	"	"	" Plymouth, ...	2
"	"	"	" Berkshire, . . .	2
"	"	"	" Barnstable, . . .	1
"	"	"	" Cumberland, . . .	1
"	"	"	" Lincoln, ...	1
"	"	"	" Nantucket, and Dukes County, . .	1
				27
			At large, . . .	4
				31

And that the Members of each County have liberty to nominate the Members for their respective Counties, after having chosen them by ballot, at a meeting of the Members [of] the County for that purpose;—and that the four to be chosen at large, be chosen by ballot." Which Report having been read was accepted.

On a motion, made and seconded,

Voted, That the first member of the senior town in each County shall determine the time when the members for their respective Counties shall meet, for the purposes mentioned in the preceding Report, and that the members make Report of their several nominations to-morrow morning.

The Convention then adjourned to to-morrow morning at eight o'clock.

Saturday Morning, 4th *Sept.* 8 *o'clock.*

The Convention met according to adjournment.

On a motion, made by the Secretary, for ascertaining the Votes and Proceedings of yesterday, as recorded by Mr. Allen, the same being read;

Voted, That they are true Records of the Votes and Proceedings of the Convention.

The President having obtained leave of absence, a motion was made, by the Secretary, that the Convention now proceed to the choice of a President *pro tempore*.

The Convention declined the choice, and directed the Secretary to preside, occasionally, on the absence of the Hon. Mr. BOWDOIN.

The Committee for preparing a nomination list of Candidates for the several Counties, for the choice of the Convention, on a Committee for preparing a Declaration of Rights, and the Form of a Constitution, to be laid before them at the adjournment to be had for that purpose, reported the following list, having been chosen by ballot of the Delegates from the several Counties, viz:

FOR THE COUNTY OF SUFFOLK.

The Hon. James Bowdoin, Esq.
The Hon. John Adams, Esq.
John Lowell, Esq.

FOR THE COUNTY OF ESSEX.

Theophilus Parsons, Esq.
Mr. Jonathan Jackson,
Mr. Samuel Phillips, jr.

FOR THE COUNTY OF MIDDLESEX.

The Hon. James Sullivan, Esq.
Nathl. Gorham, Esq.
The Hon. Eleazer Brooks, Esq.

FOR THE COUNTY OF HAMPSHIRE.

The Hon. Noah Goodman, Esq.
Major Hezekiah Smith,
Mr. John Billing.

FOR THE COUNTY OF PLYMOUTH.

John Cotton, Esq.
Rev. Mr. Gad Hitchcock.

FOR THE COUNTY OF BARNSTABLE.

Enoch Hallett, Esq.

FOR THE COUNTY OF BRISTOL.

The Hon. R. Treat Paine, Esq.
The Rev. Mr. Samuel West.

FOR THE COUNTY OF YORK.

The Hon. Benjamin Chadbourn, Esq.
The Hon. David Sewall, Esq.

FOR THE COUNTY OF WORCESTER.

The Hon. Jedediah Foster, Esq.
Joseph Dorr, Esq.
Israel Nichols, Esq.

FOR THE COUNTY OF BERKSHIRE.

James Harris, Esq.
Capt. William Walker.

On a motion made, the Convention resumed a free conversation, begun yesterday, on the general principles of a Declaration of Rights, and a Form or Constitution of Government.

The Committee not having reported any persons as candidates for the choice of the Convention on the Committee aforesaid, for the Counties of Cumberland and Lincoln.

On a motion, made and seconded,

Voted, That the name of MR. SAMUEL SMALL, be added to the nomination list for the County of Cumberland.

On a motion, made and seconded,

Voted, That the name of MR. BENJAMIN BRAINARD, be added to the nomination list, for the County of Lincoln.

There being no Delegates in Convention from the County of Nantucket or Dukes County, no candidate was returned by the Committee, or added by the Convention to the nomination list, for said Counties.

12 o'clock: the Order of the Day being called for,

On a motion, made and seconded,

Voted, That a nomination list be opened on the Secretary's table, in order to the choice of four gentlemen at large, to complete the Committee for framing a Declaration of Rights, and Form of a Constitution, to be laid before the Convention.

On a motion, made and seconded,

Voted, That the names of the gentlemen on the nomination list, for the several counties, be put up singly, in order, to the Committee aforesaid. Which being done, the following gentlemen were unanimously chosen, viz:

FOR THE COUNTY OF SUFFOLK.

The Hon. James Bowdoin, Esq.
The Hon. John Adams, Esq.
John Lowell, Esq.

FOR THE COUNTY OF ESSEX.

Theophilus Parsons, Esq.
Mr. Jonathan Jackson,
Mr. Samuel Phillips, jr.

FOR THE COUNTY OF MIDDLESEX.

The Hon. James Sullivan, Esq.
Nathaniel Gorham, Esq.
The Hon. Eleazer Brooks, Esq.

FOR THE COUNTY OF HAMPSHIRE.

The Hon. Noah Goodman, Esq.
Major Hezekiah Smith,
Mr. John Billing.

FOR THE COUNTY OF PLYMOUTH.

John Cotton, Esq.
Rev. Mr. Gad Hitchcock.

FOR THE COUNTY OF BARNSTABLE.

Enoch Hallet, Esq.

FOR THE COUNTY OF BRISTOL.

The Hon. Robert Treat Paine, Esq.
The Rev. Mr. Samuel West.

FOR THE COUNTY OF YORK.

The Hon. Benjamin Chadbourn, Esq.
The Hon. David Sewall, Esq.

FOR DUKES COUNTY AND NANTUCKET.

FOR THE COUNTY OF WORCESTER.

The Hon. Jedediah Foster, Esq.
Joseph Dorr, Esq.
Israel Nichols, Esq.

FOR THE COUNTY OF CUMBERLAND.

Mr. Samuel Small.

FOR THE COUNTY OF LINCOLN.

Mr. Benjamin Brainard.

FOR THE COUNTY OF BERKSHIRE.

James Harris, Esq.
Capt William Walker.

The gentlemen, who were yesterday appointed a Committee for ascertaining the manner in which the Committee, to be appointed to prepare a Declaration of Rights and the form of a Constitution of Government, should be chosen, the number of which it should consist, and the number for each County, desired leave, in conformity to a vote passed for that purpose, to declare their free and full assent to a Resolve, taken in their absence, on the business aforesaid, and immediately preceding the vote aforesaid, viz. "That the Government to be framed by this Convention for the People of Massachusetts Bay, be a free Republic."

The Convention being desired to withdraw, and bring in their votes for four gentlemen at large, to complete the Committee for framing a Declaration of Rights and a Constitution of Government,

On a motion, made and seconded,

Voted, That the six Monitors be a Committee to receive, count and sort the votes.

On a motion, made and seconded,

Voted, That if more than four gentlemen shall have the majority of votes, the gentlemen, who have [the] greatest number shall be declared duly elected.

The Committee proceeded accordingly, and reported that they had attended that service, and that the number of votes were 237, and that 119 made a vote; and that there were for

The Hon. SAMUEL ADAMS, Esq.	209
The Hon. JOHN PICKERING, Esq.	156
CALEB STRONG, Esq.	203

Those Gentlemen were accordingly chosen.

On a motion, made and seconded,

Voted, That the choice of one gentleman to complete the Committee be postponed to the afternoon, and that the Convention now adjourn to that time. The Convention adjourned accordingly.

Three o'clock, P. M. The Convention met according to adjournment.

The Committee were directed, agreeably to the order of the day, to receive and sort the votes for one gentleman to complete the Committee for framing a Constitution of Government and a Declaration of Rights.

The Committee proceeded accordingly, and reported that there was no choice.

They were then directed to proceed again.

The Committee aforesaid having received and sorted the votes, reported, that on counting the same, it appeared that the number of voters were 198, that 100 made a vote, and that the Hon. WILLIAM CUSHING, Esq. had 135 votes. That gentleman was accordingly declared duly elected.

Which completed the choice of the Committee, except for Dukes County and Nantucket.

On a motion, made and seconded,

Voted, That a Committee be now appointed, to make application to the Great and General Court, as soon as may be, for a Resolve for adjourning the sitting of the Superior Court of Judicature, for the Counties of Worcester and Hampshire, in order that the Committee of this Convention may enter upon the important business assigned them, which must be impeded by the attendance of many gentlemen appointed on said Committee, should said Court sit in said Counties at the usual term.

Voted, That the Hon. WALTER SPOONER, Esq.
NATH. GORHAM, Esq. and
THEOP. PARSONS Esq.
be a Committee for that purpose.

This business being completed, the Convention resumed the free conversation upon the subject voted to be discussed, which had been interrupted by the order of the day, for the choice of the Committee aforesaid.

A motion was then made and seconded, that when the Convention shall adjourn [it adjourn] to Monday morning, 10 o'clock, and that the further consideration of the subject aforesaid be postponed to said time, and there be then a free and general conversation

On a motion, made and seconded,

Voted, That the Convention adjourn to Monday morning, at 10 o'clock.

The Convention adjourned accordingly.

MONDAY MORNING, 10 o'clock, 6th Sept.

The Convention met according to adjournment.

A motion was made and seconded, that the free conversation which stands referred over to this time, upon the Form of a Constitution, and a Declaration of Rights, be now resumed. Which being put, passed in the affirmative.

A general and free conversation then ensued, which lasted the forenoon.

On a motion, made and seconded,

Voted, That the further conversation on the subject aforesaid be postponed to the afternoon.

The Convention then adjourned to 3 o'clock.

Three o'clock. Met according to adjournment, and resumed the free conversation aforesaid, upon the Declaration of Rights and the Form of a Constitution, which lasted till sunset, when, on a motion, made and seconded, the Convention adjourned to to-morrow morning, at 8 o'clock.

TUESDAY MORNING, 8 o'clock, 7th Sept.

The Convention met according to adjournment.

The Hon. Mr. BOWDOIN, having resumed the chair.

On a motion, made and seconded,

Voted, That when the Convention shall adjourn, it adjourn to Thursday, the 28th of October next ensuing.

A motion was then made and seconded, That when the Convention adjourn, it adjourn to Concord, which being put, it passed in the negative.

It was then moved and seconded, that when this Convention adjourn, it adjourn to the town of Boston, which motion being put, it passed in the negative.

On a motion, made and seconded,

Voted, That when the Convention shall adjourn, it adjourn to this town.

On a motion, made and seconded,

Voted, That the Committee appointed to prepare a Declaration of Rights and Form of a Constitution, be desired to meet as soon as may be, to determine the time and place of their meeting, for the important purpose of their appointment.

The Committee withdrew for the purpose of the preceding vote.

On a motion, made and seconded, that some method be adopted to make suitable provision for the due representation of such Towns as are not represented in this Convention, the following Resolution was taken, viz.:

In Convention, Cambridge, 7th Sept. 1779.

Whereas, It has been represented to this Convention, that a number of Towns in this State, have not been served with a precept from the Great and General Court, to send members to this Convention, and that, from that and other causes, they are not represented, and whereas it has been resolved, that when this Convention shall adjourn, it adjourn to *Thursday, the 28th day of October, next ensuing*, to meet in this place,—therefore,

Resolved, That it be recommended to the Selectmen of all the Towns in this State, which have not received the precept aforesaid, and to such other Towns as have not sent Members to this Convention, to assemble their several Towns, for the purpose of choosing a Delegate or Delegates, if they see proper, to meet at the time and place aforesaid, (in such proportion of numbers as such Towns are authorized to send Members to the Great and General Court,) for the purpose of framing a new Constitution of Government; and any Delegate or Delegates, chosen as aforesaid, producing a certificate of his being so chosen, from the Selectmen, or the Town Clerk of the Town, he or they may represent, shall be admitted to vote and act in this Convention.

Resolved, That the preceding resolve be communicated, by being published in the several newspapers in this State.

The Committee appointed to prepare a Declaration of Rights and the Form of a Constitution, to be laid before the Convention, at the adjournment, having retired to determine the time and place of their meeting to transact the important business assigned them, returned and acquainted the Convention, that they had determined to meet at the New Court House, in Boston, on Monday next, 3 o'clock, P. M. for the purpose aforesaid.

On a motion, made and seconded,

Voted, That the Secretary be directed to publish the time to which this Convention shall adjourn, in all the newspapers in this State.

On a motion, made and seconded,

Voted, That this Convention be now adjourned.

The Convention is accordingly adjourned to Thursday, the 28th day of October, next ensuing, to be continued and held in this place.

Att. SAML. BARRETT, *Secretary.*

Cambridge, 7th Sept. 1779.

MEETING HOUSE AT CAMBRIDGE, THURSDAY, 28th Oct. 1779.

Met according to adjournment.

On a motion, made and seconded,

Voted, That the gentlemen of the Clergy, who are Members of this Convention, be desired to perform the office of Chaplains, in rotation, during the Session.

The Rev. Mr. SHUTE accordingly prayed.

Several new Members appearing produced certificates of their appointment to sit and act in this Convention, which were respectively read and approved, and the gentlemen took their seats accordingly, viz.:

FROM THE COUNTY OF HAMPSHIRE.

Brimfield,	Hon. Timothy Danielson, Esq.
Sunderland,	Mr. D. Montague,
	Major Whitmore,
Charlemont,	Mr. Aaron Rice,
New Salem,	Capt. Jerem. Ballard,
Buckland,	Mr. Thomas Maxwell.

MIDDLESEX.

Ashby,	Capt. Jonathan Lock,
Pepperell,	Col. Henry Woods,
Wilmington,	Capt. John Harnden,
	Mr. Edward Kendall.

SUFFOLK.

Needham,	Col. William McIntosh.

WORCESTER.

Hubbardston,	Mr. John Woods,
Holden,	Mr. Richard Flag.

BERKSHIRE.

Adams,	Samuel Todd, Esq.

PLYMOUTH.

Kingston,	William Drew, Esq.

ESSEX.

Marblehead,	The Hon. Azor Orne, Esq.
	Thomas Gerry, Esq.
	Joshua Orne, Esq.
	Jonathan Glover, Esq.

A motion was then made and seconded,

That the Convention now adjourn to the town of Boston. After some debate the further consideration of the motion was postponed to the afternoon.

The Committee appointed to prepare a Form of Government, not being ready to report, the Convention adjourned to three o'clock, P. M.

Three o'clock P. M. Met according to adjournment.

The Committee appointed to prepare a draught of a Declaration of Rights and Form of Government made report of the same, which, being read* a motion was made and seconded, that a printed Copy of the Declaration of Rights be distributed among the members to-morrow morning.

The motion for adjourning to Boston was then renewed and debated, when a motion was made for the question's subsiding; which being withdrawn, the first motion was put and passed in the negative.

* This Report is here referred to in a Note to the Journal, as follows, 'see printed copy,' but is not to be found among the papers of the Convention.

It was then moved and seconded,

That the Convention adjourn to meet in this place to-morrow morning, 9 o'clock.

Which being put, passed in the affirmative.

[On advice of the President, Mr. S. ADAMS, and several other gentlemen, the various alterations, which were made by the Convention in the Report of the Committee, as finally agreed to, were respectively minuted on the printed Copy, and the numerous votes for the several amendments, and for transposing, accepting or rejecting words, propositions, paragraphs, articles, sections, &c. generally omitted.*]

FRIDAY MORNING, 29th, 9 o'clock.

Met according to adjournment.

The Rev. Mr. HAVEN, prayed.

In conformity to the orders of the Convention, copies of the Declaration of Rights were distributed among the members.

A motion was then made and seconded,

That the Convention adjourn to 3 o'clock.

Which being put, passed in the negative.

It was then moved and seconded,

That the Declaration of Rights be read.

Which being put, passed in the negative.

It was then moved, and seconded,

That the same be taken up by paragraphs, which being put, passed in the negative.

It was then moved and seconded,

That the Convention adjourn to 3 o'clock, P. M. which being put, passed in the affirmative.

* The words in Brackets seem to be in the nature of a Note by the Secretary of the Convention, and no part of the regular journal. The Report of the Committee appointed to frame a Declaration, &c. which is here and subsequently referred to, is not among the papers of the Convention either in print or manuscript.

Three o'clock, P. M. Met according to adjournment.

The Convention went into the consideration of the Declaration of Rights, and directed the same to be read; previous to the reading of which, a motion was made and seconded,

That 12 o'clock to-morrow be assigned for the consideration of the question, whether the Convention shall adjourn from this place.

Which, being put, passed in the affirmative. The Declaration of Rights was then read, and on a motion, made and seconded, the same was voted to be taken up by propositions. *

The preamble and the 1st. article, after sundry amendments, being accepted,

On a motion, made and seconded,

Voted, to adjourn to 9 o'clock, to-morrow morning.

SATURDAY MORNING 30th, 9 o'clock.

Met according to adjournment.

The Rev. Mr. CHAPLIN prayed.

The Convention resumed the consideration of the Declaration of Rights.

The 2d article, after debates and amendments, being accepted, the order of the day was called for, and the question assigned to this time (12 o'clock) viz. "whether the Convention shall adjourn from this place," after a general debate, being put, passed in the negative.

A motion was then made and seconded, for adjourning to Monday morning, which was superseded by a motion for adjouring to 3 o'clock, P. M. which, being put, passed in the affirmative.

Three o'clock, P. M. Met according to adjournment.

The Convention resumed the consideration of the Declaration of Rights.

* Here reference is made to the preceding *Note* of the Secretary of the Convention, in these words, "see page 4th."

The 3d article being read, on a motion made and seconded,

Voted, That the same be put by propositions. The two first of which were accordingly put and accepted. When the subsequent propositions relating to the support of religious worship and instruction were taken up and largely debated.

A motion was then made and seconded, that the further consideration of this article be postponed to the adjournment.

On a motion, made and seconded,

Voted, to adjourn to Monday morning, 9 o'clock.

Nov. 1st. MONDAY, A. M. 9 o'clock.

Met according to adjournment.

The Rev. Mr. WEST prayed.

The 3d. article aforesaid being read and debated,

On a motion, the debates were suspended, in order to the distribution of the remaining sheets of the Report of the Committee among the members present, and to the having a fuller House for the consideration of so important an article.

After which, a motion was made and seconded, to assign 10 o'clock to-morrow morning, for further debates on this article.

Which being put, passed in the affirmative.

The 4th, 5th, 6th, 7th, 8th, and 9th articles were then severally considered and accepted, after some amendments in the 4th, 8th and 9th, (as will appear by reference being had to the amended copy of the report.)

The Convention then adjourned to 3 o'clock, P. M.

Three o'clock, P. M. Met according to adjournment.

The Convention proceeded in the consideration of the Declaration of Rights.

The 10th, 11th, 13th, 14th, and 15th articles were taken up and passed, with some other amendments on the 10th, and 15th, (see the Copy aforesaid.)

The 12th, on a motion, made and seconded, was committed for amendment to the Hon. Judge SERGEANT, the Hon. Mr. PAINE, and Mr. PARSONS.

The 16th, on a motion made and seconded, was committed to the same gentlemen, with the addition of the Hon. Judge SEWALL.

The 17th, after large debate, was, on a motion made and seconded, committed to the Hon. TIMOTHY DANIELSON, and WALTER SPOONER, Esqrs. and CALEB STRONG, Esq. for amendments.

The Convention then adjourned to to-morrow morning, 9 o'clock.

TUESDAY MORNING, 9 o'clock.

Met according to adjournment.

The Committee on the 12th article reported two several amendments, viz. a substitution of the word "or," instead of the words "he cannot," and after the word "confession," the insertion of the words "or other conviction agreeable to law." The former of which, being put, was unanimously accepted; the latter was largely debated, and several alterations proposed, when, on a motion made and seconded, the article was recommitted, and the Hon. Mr. PICKERING added to the Committee.

Ten o'clock, A. M. The order of the day being called for, the Convention went into the consideration of the 3d article; which, being largely debated, the further consideration of the same was postponed to 3 o'clock, P. M.

On a motion made and seconded,

Voted, to adjourn to said time.

Three o'clock, P. M. Met according to adjournment.

Resumed the debates on the 3d artiele, which being very extensive, on a motion made and seconded,

Voted, That the rule of the Convention, which prescribes "that no member shall speak more than twice to a question without leave being first obtained," be suspended during the debates on this article. A free and general debate then ensued, when, on a motion made and seconded,

Voted, to postpone the further consideration of the article to the adjournment.

On a motion, made and seconded,

Voted, That the Secretary have leave of absence to-morrow, and that JOSEPH ALLEN, Esq. take the minutes in his absence.

The Convention then adjourned to to-morrow morning, 9 o'clock.

WEDNESDAY MORNING, 3d, 9 o'clock

Met according to adjournment.

The Convention resumed the consideration of the 3d article, and after long debate thereon, the same was postponed to the afternoon.

JOHN KIRKLAND, Esq. being duly returned from the town of Norwich, a delegate to this Convention, produced his credentials, and took his seat accordingly.

On a motion, made and seconded,

Voted, to adjourn to 3 o'clock this afternoon.

Three o'clock, P. M. Met according to adjournment.

The 3d article being resumed and largely debated, it was moved and seconded, "that a Committee be appointed to consider of the proposed amendments of the said article as offered for the consideration of the Convention, and report thereon," which, being put, passed in the affirmative.

The Convention then made choice of the following gentlemen for that purpose, viz :

The Rev. MR. ALDEN.
The Hon. MR. DANIELSON,
THEOP. PARSONS, Esq.
The Hon. SAMUEL ADAMS, Esq.
The Hon. MR. PAINE,
The Rev. MR. SANFORD, and
CALEB STRONG, Esq.

Then adjourned to Friday morning, 9 o'clock.

FRIDAY A. M.

Met according to adjournment.

The Rev. Mr. THATCHER prayed.

On a motion, made and seconded,

Voted, That the several proposals for amendments on the 3d article be delivered to the Committee on the same.

The Committee on the 17th article in the Declaration of Rights reported the following as a substitute therefor, viz: "The liberty of the Press being essential to the security of freedom in a State, it therefore ought not to be restrained in this Commonwealth." Which, being put, was accepted, and ordered to be inserted in lieu of 17th article accordingly.

The Committees on the 12th and 16th articles, not being ready to report, the Convention went into the consideration of 18th article, (the subject military power,) and after considerable debate, and expunging the word "standing" before the word "armies," accepted the same;—also the 19th and 20th articles, without amendment. The 21st was after some debate suspended to the afternoon, and the 22d accepted. Then adjourned to 3 o'clock.

Three o'clock, P. M. Met according to adjournment.

The 21st art. was resumed and debated, when the same was suspended by the consideration of the 23d, 24th, 25th, 26th, 27th, 28th, and 29th, which (after the substitution of the word "Subject," instead of "Man," and obliterating the words "any act of," before the word "Legislature,") were severally accepted, as also the 30th, after inserting the words "of the Supreme Judicial Court."

On a motion, made and seconded,

Voted, That the Convention will sit to-morrow till 3 o'clock, and then adjourn to Monday morning.

The Convention then adjourned [to] to-morrow morning, 9 o'clock.

SATURDAY A. M.

Met according to adjournment.

The Rev. Mr HEWINS prayed.

The Committee on the 3d article of the Declaration of Rights reported a new draught of the whole, which being read, on a motion made and seconded,

Voted, That the further consideration of the same be assigned to Wednesday morning, 11 o'clock.

The Convention then resumed the consideration of the 21st article in the said Declaration, when a motion was made and seconded, for expunging the last clause, beginning at the words " and there shall be ;" which, being put, passed in the affirmative.

On a motion made and seconded,

The 30th article was voted to be reconsidered, so as to lay open for debate in its first state, by expunging the words inserted yesterday.

When, after long debate, it was moved and seconded, that the sense of the Convention be taken upon the word " Judges " in said article, in order to which a question was moved and seconded, viz. " whether it be the sense of this Convention that the Judges of the Supreme Judicial Court of this Commonwealth, ought to be appointed to hold their offices during good behaviour ; which, being put, passed in the affirmative, by 78 out of 113.

A motion was then made and seconded, that a time be now assigned for taking into consideration the expediency of adjourning the Convention from this place to Boston.

When, on a motion made and seconded,

Voted, That Tuesday evening, at 7 o'clock, be assigned for that purpose.

The Convention then adjourned to Monday morning, 9 o' clock.

MONDAY A. M. Nov. 8.

Met according to adjournment.

The Rev. Mr. CUMMINGS prayed.

On a motion, made and seconded, the list of the members was read, by which, with the return of the House, it appeared that the members present were 93

Absent 207

The Convention then adjourned to 3 o'clock, P. M.

Three o'clock. Met according to adjournment.

The 30th article in the Declaration of Rights was then further considered and debated.

It was then moved and seconded, that a Question be put, whether it is the opinion of this Convention that the Judges of the Courts of Common Pleas in this Commonwealth ought to be appointed to hold their offices during good behaviour, which was accordingly put, and passed in the negative, by 57 out of 119.

On a motion, made and seconded,

Voted, That the consideration of Justices of the Peace be postponed, until they come to be considered in their order in the Frame of Government.

It was then moved and seconded, that the words " of the Supreme Judicial Court," be inserted between the word " Judges," and " should," in the 30th article, which, being put, passed in the affirmative. The article was then put as amended and was accepted.

The 31st article was then taken up and debated, when the further consideration of it was suspended by a motion, made and seconded, to adjourn to to-morrow morning, 9 o'clock.

Which, being put, passed in the affirmative.

TUESDAY MORNING, 9th.

Met according to adjournment.

The Rev. Mr. SHUTE prayed.

On a motion, made and seconded, that some provision be made relative to the appointment of Jurors, the consideration of the same was referred to the Committee on the 16th article.

On a motion, made and seconded, that the word " Massachusetts," in the first paragraph of the preamble to the Frame of Government be expunged, and that the word " Oceana," be substituted in its stead, the same was put, and passed in the negative.

On a motion, made and seconded,

Voted, That the word " might " in the second paragraph of the same be expunged, and the word " may " inserted in its place.

On a motion, made and seconded,

Voted, That 3 o'clock this afternoon be assigned for the consideration of the 2d paragraph in the preamble of the Frame of Government, together with the 31st article in the Declaration of Rights.

A motion was then made and seconded, that the first paragraph of the first section in the second Chapter or Frame of Government, be expunged, and the following words inserted in its stead, viz. "The department of legislation shall be formed by three branches, a Governor, Senate and House of Representatives, each of which shall have a negative on the other."

A motion was then made and seconded,

That the Convention go into the consideration of a previous question, viz. "how many Branches the Legislature shall consist of." In order to which it was moved and seconded, "That the Legislative Department in this Commonwealth shall consist of three Branches."

The Convention then adjourned to 3 o'clock, P. M.

Three o'clock. Met according to adjournment.

Resumed the question proposed to be considered previous to the adjournment, viz. That the Department of Legislation be formed by three branches, when the same was largely debated, after which, a motion was made and seconded, that the Convention proceed to take the several articles in the Constitution into consideration, without coming to any decisive questions until further order be taken thereon; which motion, after some debate, was withdrawn.

A motion was then made and seconded,

That, in the further consideration of the Frame of Government, the Convention proceed by first taking up the 3d Section, or House of Representatives, and the other Branches of the Legislature in their order, and after those the Executive.

Seven o'clock.

The order of the day being called for, and superseding the above, the Convention went into the consideration of the question of adjourning from this place to Boston.

A previous question was then moved, and seconded, viz.—Whether the Convention will sit until they shall have gone through the Report of the Committee?

This motion, being withdrawn ;

On a motion, made and seconded,

Voted, That the President be desired to send a letter to the Selectmen of the Town of Brookfield, requesting of them to convene the inhabitants in order to their electing, if they see meet, one or more persons to represent them in this Convention, in the room of the Hon. Judge FOSTER, lately deceased.

On a motion, made and seconded,

Voted, That the Convention now adjourn to meet in this place to-morrow morning, at 9 o'clock.

WEDNESDAY MORNING, 10th, Nov.

Met according to adjournment.

The Rev. Mr. SANFORD prayed.

A motion, was then made and seconded,

That JOSEPH ALLEN, Esq. take the minutes, and put the votes from time to time, in the absence of the Secretary.

The Convention then took into consideration the Frame of Government, beginning with the 3d section ; the first article of which being read, and some debate had thereon, the further proceedings thereon were superseded by the order of the day, (11 o'clock, being assigned for the debates on the report of the Committee on the 3d article.) The said report was then read repeatedly. An extensive debate ensued.

On a motion, made and seconded,

Voted, That the words " where he shall reside, " in the last clause, be expunged, and the words, " in which said monies are raised, " be substituted.

In the last paragraph, it was moved, and seconded, after long debate, to insert the words " Christians of all denominations, " instead of " all sects and denominations of Christians, " which, being put, passed in the affirmative. The Convention then adjourned to 3 o'clock, in the afternoon.

Three o'clock, P. M. Met according to adjournment.

The Report of the Committee on the 3d article being resumed, the same was very largely debated, particularly the last paragraph.

Several motions were made, which were respectively debated, as additions to be made to the words, " Christians of all denominations," viz. " whose avowed principles are not inconsistent with the peace and safety of Society, "—" except such whose principles are repugnant to the Constitution, "—" being Protestants, "—"except Papists, " &c. When a motion was made and seconded, that the 3d article in the Declaration of Rights, with all the amendments, be expunged ;—which, being put, passed in the negative. It was then moved, and seconded, that the report be taken up by propositions ;—which, being put, passed in the affirmative. The Report was accordingly taken up and debated, by propositions.

On which, several amendments were proposed and debated, some of which were accepted.

The whole Report with the amendments was then put, and accepted ;—and the same ordered to be inserted as the 3d article in the Declaration of Rights, instead of that in the printed report of the General Committee, as follows, viz.

Art 3d. " As the happiness of a People, and the good order and preservation of Civil Government, essentially depend upon piety, religion and morality, and as these cannot be generally diffused through a community, but by the institution of the publick worship of God, and of publick instructions in piety, religion and morality ; therefore, to promote their happiness, and to secure the good order and preservation of their Government, the People of this Commonwealth have a right to invest their Legislature with power to authorize and require, and their Legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, or other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the publick worship of God, and for the support and maintenance of publick *Protestant* Teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily."

" And the People of this Commonwealth have also a right

to, and do, invest their Legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend."

"*Provided*, notwithstanding, that the several towns, parishes, precincts, or other bodies politic, and religious societies, shall at all times have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance."

"And all monies paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any, on whose instructions he attends, otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said monies are raised."

"And Christians of all denominations, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the laws, and no subordination of any one sect or denomination to another shall ever be established by law."

The Convention then adjourned to to-morrow morning, 9 o'clock.

THURSDAY, A. M. 12th Nov. *

Met according to adjournment.

The Rev. Mr. FISK prayed.

A motion was made and seconded, That a Committee be appointed to apply to the General Court, for payment of the Members of this Convention, to be made out of the Treasury of this State; which, being put, passed in the affirmative.

A motion was then made and seconded, That the same Committee apply to the General Court, for payment of such charges as have arisen, or may arise, in prosecuting the business of this Convention; which, being put, passed in the affirmative.

* Should be 11th. Nov.

It was then moved and seconded, That the Committee consist of three, and that the

Hon. JONATHAN GREENLEAF, Esq.
Major SETH WASHBURN, and
ISRAEL NICHOLS, Esq.

be a Committee for the purposes aforesaid.

A motion was then made and seconded, to go into the consideration of the time to which the Convention shall adjourn, when it shall adjourn for a recess, which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, To go into the consideration of the place to which the Convention shall adjourn, when it adjourn for a recess.

On a motion, made and seconded,

Voted, That the first Wednesday in January next be the time to which the Convention be adjourned, when it be adjourned for a recess.

On a motion, made and seconded,

Voted, That the Representatives' Chamber, in Boston, be the place to which the Convention be adjourned, when it be adjourned for a recess.

On a motion, made and seconded,

Voted, That a Committee be appointed to prepare a suitable place for the meeting of this Convention, in case the Representatives' Chamber should be engaged at the time to which the Convention shall adjourn.

On a motion, made and seconded,

Voted, That the Delegates from the town of Boston be a Committee for that purpose.

On a motion, made and seconded,

Voted, That the time and place of adjournment be notified in the public newspapers of this State, and the general and punctual attendance of the members be specially enjoined in the said notification, under the signature of the President.

The Committee on the 12th and 16th articles of the Declaration of Rights, not being ready to report, the same was directed to remain for further consideration with said Committee, until the adjournment.

The Convention then went into a free conversation, upon the connection of the several parts of the report of the General Committee.

Three o'clock.

A motion was made and seconded, That the Convention now adjourn for a recess, which, being put, passed in the affirmative.

The Convention accordingly stands adjourned to Wednesday, 5th January, 1780.

Att. SAMUEL BARRETT, *Secretary.*

Cambridge, 12 *Nov.* * 1779.

Pursuant to the vote of the Convention, the following notification was published in the several newspapers, viz.:

"The gentlemen of the Convention, for forming a Constitution of Government for the State of Massachusetts Bay, are hereby notified, that their meeting stands adjourned to Wednesday, the 5th of January next, at the Representatives' Chamber, in Boston."

"As the good people of this State are impressed with the idea of the necessity of a new and good Constitution of Government, and have a right to expect of the present Convention the exertion of their best abilities to frame such an one; and as the framing it, and its acceptance, when framed, must greatly depend on the collective wisdom of the Convention being had, in the final determination on every part of it, but which cannot be had without a general and constant attendance; I am directed, by a vote of the Convention, to enjoin upon the members, *from its necessity and importance*, A CONSTANT AND GENERAL ATTENDANCE accordingly."

"Gentlemen do not need to be informed, that they will find it difficult, if not impossible, to explain, to the satisfaction of their constituents, any form of Government the Convention may agree upon, unless they had been present at the debates and entered minutely into the grounds and reasons of every decision. Even the best form may be rejected, for want of such an explanation, and removing objections, which, had they duly attended the Convention, might without difficulty have been removed."

* See Note to page 47.

"A general attendance would moreover save to the public a great expense, arising from the time necessarily spent in reviewing questions for the information of members, who were absent when they were first agitated."

"And, finally, as the business before the Convention is not of a transient but permanent nature, and is designed for the benefit of the remotest ages of this Commonwealth, the presence and assistance of the whole body is expected and required; which will have a tendency to remove those local and temporary prejudices and views which might otherwise endanger the acceptance of the best Constitution the Convention can propose."

"For these, and other reasons, an adjournment to so distant a day was deemed necessary; that, the fall business being finished, and the Session of the General Court, as well as the Circuit of the Superior Court completed, every gentleman might, with the greater convenience to his private affairs and those of the public, be able to give his punctual attendance; and the very interesting object of their convening be attained, in as perfect a manner, and with as little expense, as possible."

JAMES BOWDOIN, *President of the Convention.*

P. S. The Printers in this State, and those in the neighboring States, who furnish any part of this with Newspapers, are requested to insert the above notification in the same.

A true Copy.

Att. SAML. BARRETT, *Secretary.*

Boston, 20th, Nov. 1779.

REPRESENTATIVES CHAMBER, IN BOSTON, Jan. 5, 1780.

The Convention met according to adjournment.

There being but few members present, and the travelling excessive bad, it was, after some conversation, thought expedient, and accordingly moved and seconded, that the Convention be adjourned to Friday next, at half past two o'clock, P. M.

A motion was then made and seconded, that a letter be wrote to the Selectmen of the town of Braintree, requesting them to convene the inhabitants, in order to the choice of one or more persons to represent them in this Convention, in the room of the Hon. JOHN ADAMS, Esq. who has sailed for Europe; whereupon,

Voted, that the Secretary be directed to write to the Selectmen of Braintree, accordingly.

It being suggested that the small pox had made its appearance in several places in the town: On a motion, made and seconded,

Voted, That Major GOODMAN, Col. HUTCHINSON, and Doct. JARVIS, be a Committee to make strict inquiry into the state of the small pox, and report at the adjournment.

The motion for adjournment being then put, it passed in the affimative. The Convention was accordingly adjourned to Friday, at half past 2 o'clock, P. M.

Boston, 6 *Jan.* 1780.

GENTLEMEN,

The Honorable Mr. ADAMS, your late Delegate in the Convention, for framing a new Constitution of Government for this State, having sailed for Europe, on an important appointment from Congress, and his seat being thereby vacated, I am directed, by their vote of yesterday, to request of you, gentlemen, to convene the inhabitants of your place, as soon as may be, in order to their electing and deputing one or more persons (as they shall see fit, within the prescribed limitation of numbers,) to represent them in the said Convention.

I am, Gentlemen,

your very humble servant,

S. BARRETT, *Secy.*

To the Selectmen of the town
of Braintree.

(Copy.)

FRIDAY, P. M. half past 2.

Met according to adjournment.

The Committee on small pox reported the following letter.

To the Gentlemen, the Committee of Convention :

The Selectmen of Boston acquaint the Gentlemen, the Committee of Convention, that there are five persons now sick of the small pox, and two others nearly ready to be discharged from the hospital at West Boston. These are the only persons that, upon the strictest enquiry and examination, we can find with that distemper, and the hospital the only house in this town, which is infected with the small pox.

By order of the Selectmen,

WILLIAM COOPER,

Town Clerk.

Boston, 5 Jan. 1780.

(Copy.)

It was then moved, and seconded, that the time to which the Convention shall be adjourned, be Wednesday next, at 3 o'clock, P. M.

It was then moved, and seconded, " that notice be given in the Saturday's and Monday's newspapers, that the Convention for forming a new Constitution have met, and adjourned to Wednesday next, at 3 o'clock, P. M. on account of the difficulty of travelling ; and that it is proposed to do business at that time, if a competent number of the members shall be then arrived ; if not, to make short adjournments for that purpose, but to proceed upon and finish the business, for which they are chosen, as soon as a sufficient number shall be convened ; and that the members be earnestly desired to take notice hereof, and attend as soon as possible. And that the printers of the several newspapers in Salem, Worcester, Hartford and Providence, be requested to insert in them said notification ;" which, being put, passed in the affirmative. The motion for adjournment, being then put, passed in the affirmative.

The Convention was accordingly adjourned to Wednesday, the 12th instant, three o'clock, P. M.

WEDNESDAY, 3 o'clock P. M. 12 Jan.

The Convention met according to adjournment.

Mr. Jacob Eaton produced a certificate from the Selectmen of the town of Bristol, in the County of Lincoln, of his appointment to represent said town in Convention, and took his seat accordingly.

On a motion, made and seconded,

1st. *Voted*, That a Committee be appointed to apply to the General Court for a resolve making provision for fuel for the use of the Convention.

On a motion, made and seconded,

2d. *Voted*, That a Committee be also appointed to apply to the General Court for payment of such members of this Convention as may be detained in town by reason of the adjournments, which may be necessary in order to the convening of a competent number to proceed to business, out of the public Treasury.

On a motion, made and seconded,

3d. *Voted*, That such gentlemen of the Convention as are members of the General Court be a Committee for the above purposes.

On a motion, made and seconded,

4th. *Voted*, That the Convention be adjourned to Friday next, at 3 o'clock, P. M. and the Convention was accordingly adjourned to that time.

FRIDAY, P. M. 14th, 3 o'clock.

Met according to adjournment.

The travelling remaining extremely difficult, and very few members attending, it was thought necessary to have a further adjournment, and accordingly,

On a motion, made and seconded,

Voted, That the Convention be adjourned to Wednesday next, at 11 o'clock, A. M.

WEDNESDAY, 19th, 11 o'clock, A. M.

Met according to adjournment.

The number of members attending being increased, and many more on the road, it was deemed eligible to make a short adjournment for better information, and also, in some expectation of a competent number within a few days to proceed to business, and agreeably, after full debate, moved, and seconded, " that the Convention be adjourned to to-morrow at eleven o'clock in the forenoon," (having previously negatived Wednesday and Friday next,) which, being put, passed in the affirmative. The Convention was accordingly adjourned to that time.

THURSDAY, 20th, 11 o'clock, A. M.

Met according to adjournment.

Several members having arrived since the adjournment, from whose account of the travelling, as well as from circumstances mentioned in the course of the debates, there appeared a great probability of sufficient numbers to proceed to business next week, it was moved, and seconded, " That the Convention be adjourned to Wednesday next ;" which, being put, passed in the affirmative.

It was then moved, and seconded, " That the time of day to which the Convention be adjourned be eleven o'clock, in the forenoon," which, being put, passed in the affirmative.

The Convention was adjourned accordingly.

WEDNESDAY, 11 o'clock, A. M. 26th.

Met according to adjournment.

Several members being added since the adjournment, and there being a probability of many more in the afternoon, on a motion, made and seconded,

Voted, That the Convention be adjourned to 3 o'clock, P. M. and the Convention was adjourned accordingly.

Three o'clock, P. M. Met according to adjournment.

Major DANIEL WHITMORE produced a certificate from the Selectmen of Sunderland, of his appointment to represent the said town in this Convention, which being read, and no objections made, he took his seat accordingly.

It was then moved, and seconded, that the Convention be adjourned to to-morrow morning, eleven o'clock.

It was moved, and seconded, that, previously to the adjournment, the members present be enjoined to attend punctually.

Their punctual attendance was accordingly enjoined by the President; fifty members present, Col. DIX then moved for leave of absence to-morrow, which being proposed by the President to the Convention, was granted.

The motion for adjournment, being then put, passed in the affirmative.

The Convention was adjourned agreeably.

THURSDAY MORNING, 11 o'clock, 27th.

Met according to adjournment.

The subject of adjournment being resumed and debated, a question was moved, and seconded, "That the Convention, now proceed to the business assigned them," which, being largely debated, it was moved, and seconded, that the number and names of the towns now represented be returned by Counties, which, being put, passed in the affirmative, and the following return was made, viz.

COUNTY OF SUFFOLK.

Towns of	Roxbury,	Wrentham,	
	Milton,	Stoughtonham,	
	Foxbury,	Brookline,	
	Needham,	Dedham,	
	Boston,	Chelsea,	10

COUNTY OF ESSEX.

Towns of	Salem,	Ipswich,	
	Newburyport,	Newbury,	
	Beverly,	Salisbury,	
	Andover,	Amesbury,	
	Danvers,		9

COUNTY OF MIDDLESEX.

Towns of	Lincoln,	Westford,	
	Medford,	Dracut,	
	Lexington,	Chelmsford,	
	Malden,	Sherburne,	
	Billerica,	Woburn,	
	Wilmington,	Cambridge,	
	Charlestown,	Newton,	14

COUNTY OF WORCESTER.

Towns of	Worcester,	Leicester,	
	Petersham,	Western,	4

COUNTY OF HAMPSHIRE.

Towns of	Sunderland,	Brimfield,	
	Buckland,	South Hadley,	
	Shutesborough,		5

COUNTY OF BRISTOL.

Towns of	Dartmouth,	Easton,	
	Mansfield,	Dighton,	4

COUNTY OF BERKSHIRE.

	Stockbridge,	1
		47

For the County of				York,	none.
"	"	"	"	Cumberland,	do.
"	"	"	"	Nantucket,	do.
"	"	"	"	Plymouth,	do.
"	"	"	"	Barnstable,	do.
"	"	"	"	Dukes County,	do.
"	"	"	"	Lincoln,	do.

The question being then put that the Convention now proceed to business, it passed in the affirmative, 42 out of 60.

On a motion, made and seconded,

Voted, That the galleries be opened during the sitting of the Convention.

It was then moved and seconded, that the Convention be adjourned to 3 o'clock, P. M.

And the Convention was adjourned accordingly.

Three o'clock, P. M. Met according to adjournment.

The President reminded the Convention of the state of the business before them at the adjournment to this town, particularly of the several articles in the Declaration of Rights, which were committed, and as the gentlemen on those Committees were not present, it was moved, and seconded, That the 6th Chapter of the Constitution, in the Report of the General Committee, which relates to the University at Cambridge, be now taken into consideration, which, being put, passed in the affirmative.

It was moved, and seconded, that, previously thereto, Wednesday morning next, at 11 o'clock, be assigned to consider the subject of Representation, which, being put, passed in the affirmative. The subject of the University being resumed, and the chapter aforementioned read,

On a motion, made and seconded,

Voted, That it be considered, article by article.

The first article in the first section being read, it was moved, and seconded, that the words "wise and pious," before "Ancestors," be expunged. Which, being put, passed in the negative.

It was then moved, and seconded, That the following proviso be inserted after the word "enjoy," viz; "Provided that the

same be not inconsistent with the fundamental rights of the People of this Commonwealth, as stated in the aforegoing Declaration of the same."

Which, being put, passed in the negative.

The article was then put as it stands in the report, and accepted.

The second article was then read, and the question being put on the same, it was accepted, without amendment.

The third article being read, it was, after some debate, moved and seconded, that the further consideration of the same be postponed.

Which, being put, passed in the affirmative.

The second section was then read, and accepted, without amendment.

It was then moved and seconded, That the Convention go into the consideration of the seventh Chapter in the report.

Which, being put, passed in the affirmative.

The 7th chapter was accordingly read, and the question being put upon it, the same was accepted, without amendment.

A motion, was then made and seconded, that the 5th chapter be now taken into consideration, which was superseded by a motion, made and seconded, "That a Committee be appointed, to prepare and bring in an arrangement of the business, which it may be proper for the Convention to proceed upon at the adjournment."

Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of five.

Whereupon the following gentlemen were nominated, and appointed a Committee for the above purpose, viz:

JOHN LOWELL, Esq.
The Hon. Judge LINCOLN,
The Hon. Mr. PICKERING,
Mr. JONATHAN JACKSON, and
The Rev. Mr. HAVEN.

It was then moved, and seconded, That the Convention be adjourned to to-morrow morning, at 10 o'clock; which being put, passed in the affirmative, and the Convention was adjourned accordingly.

FRIDAY MORNING, 28th, 10 o'clock.

The Rev. Mr. CLARKE opened the Convention with prayer.

It was then moved, and seconded, that a Committee be appointed to wait on the ministers of the Gospel of the several denominations through the town, requesting them to pray in rotation with the Convention, previously to entering upon business, every morning during the session.

Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of three. The following gentlemen, viz:—Mr. GRAY, Col. CUMMING, and Col. DAWES, were nominated and appointed a Committee for that purpose.

The Committee appointed to prepare and report an arrangement of the business proper for the Convention to proceed upon at this time, made report as follows:

"The Committee chosen to make an arrangement of the business proper for the Convention to proceed upon immediately, beg leave to recommend that the following articles, in the report of the Committee, be considered in the following succession.

1. The 2d paragraph in the 1st article in the first section of the 2d chapter.
2. The 2d article of the same section—do.
3. The 3d article in the same section, excepting the clause which respects the issuing monies out of the Treasury.
4. The 4th article in the 3d section in the same chapter.
5. The 5th article of the same section.
6. The 8th article in the same section.
7. The 10th article in the same section.
8. All the paragraphs but the first in the 8th article of the 3d section of the 3d chapter.
9. The 2d article in the 4th chapter.
10. The 5th article of the same chapter.
11. The 3d article of the 5th chapter.
12. The 4th article of the same chapter.
13. The 5th article of the same chapter.
14. The 6th article of the same chapter."

Which report, being read, it was moved, and seconded, that the same be accepted.

Which, being put, passed in the affirmative.

The 2d paragraph under the 1st article, 1 sect. 2d chapter, was then read and accepted, with the temporary substitution of the words "The Legislature," instead of the word "they," at the beginning.

The 2d article in the same section, being read, was accepted.

The 3d article in the same section, excepting (as above,) the words "to be issued," &c. as far as the words "within the same," being read,

On a motion, made and seconded,

Voted, That the same be taken up by paragraphs.

The 1st paragraph being read as far as "the government thereof," was accepted.

The 2d paragraph, as far as the words "provided for," being read,

On a motion, made and seconded,

Voted, That the words "such officers excepted," be expunged.

The paragraph with the amendment, being then put, was accepted.

The 3d paragraph, as far as the word "Constitution," being read, was accepted, after inserting the words "or affirmations," immediately after "oaths."

The 4th, as far as the word "punishment," read, and voted to be postponed.

The 5th, from the words "to impose and levy," to the words "the same," being read, and after inserting the words "duties, excises," after the word "rates," and expunging the words "persons of,"

On a motion, made and seconded,

Voted, That this paragraph be committed.

On a motion, made and seconded,

Voted, That the Committee consist of three.

A nomination being called for,

The Hon. Mr. PICKERING,
Mr. LOWELL, and
Judge LINCOLN, were appointed.

The 6th paragraph being read, from the words "and to dispose," to "defended," inclusively:

On a motion, made and seconded,

Voted, That the same be expunged.

The 7th and last paragraph, respecting valuation of estates, being read, it was moved, and seconded, that the term for taking the same be contracted, which motion, after some debate, was superseded by a motion, made and seconded, that this paragraph be recommitted, which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of three.

A nomination being called for, the following gentlemen were appointed, viz. Mr. LOWELL,
Mr. JACKSON, and
Mr. APPLETON.

The 4th article, in the 3d section, in the same chapter, was then taken up, and read; after debates had on the same, it was moved, and seconded, that the further consideration of this article be postponed until there shall be a fuller Convention.

Which, being put, passed in the affirmative.

The 5th article was then read; when it was moved, and seconded, that the words "from among the wisest, most prudent and virtuous of the freeholders," be expunged. Which, being put, passed in the affirmative.

The article was then put, with the amendment, and accepted.

The 8th article, respecting adjournments of the House of Representatives was read, and accepted.

The 10th article being read,

On a motion, made and seconded,

Voted, That the same be taken up and considered by paragraphs.

The 1st paragraph, as far as the words, "in their own House," being read, was accepted.

The 2d, as far as the word "behaviour," after large debate, was,

On a motion, made and seconded,

Voted, To be passed over for the present.

It was then moved, and seconded, That the Convention be adjourned to the afternoon, at 3 o'clock.

The Convention was accordingly adjourned.

Three o'clock, P. M. Met according to adjournment.

The 10th article being resumed, and the several paragraphs distinctly considered, and largely debated, it was moved, and seconded, that the whole of this article be recommitted.

Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of five.

A nomination being called for,

The Hon. Brig. DANIELSON,
Mr. LOWELL,
Mr. JACKSON,
The Hon. Mr. PICKERING, and
The Rev. Mr. THATCHER, were appointed.

On a motion, made and seconded,

Voted, That the above Committee be instructed to bring in one or more clauses, by which the privileges, &c. of the Legislature shall be fully and explicitly stated and secured, the extent of the protection of its members ascertained, and its power of expulsion prescribed and limited.

The Committee on the 5th paragraph, of the 3d article, 1st section, and 1st chapter, made report as follows :

Instead of the words "to impose and levy," to "the same," that the following paragraph be substituted, viz :

"And to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and persons resident and estates lying within the said Commonwealth ; also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandize, and commodities whatsoever, brought into, produced, manufactured or being within the same."

Which amendment, being put, passed in the affirmative.

The Committee on the last paragraph in the same article made report, that the following be substituted in lieu of the same ; viz.

"And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth, taken anew once in every ten years, at the least; and as much oftener as the General Court shall order."

Which report, being put, was accepted.

It was then moved, and seconded, That the Secretary be directed to insert in the Saturday's, Monday's, and Thursday's newspapers, and in those printed in Worcester, Providence and Hartford, an advertisement, purporting that the Convention have entered upon the business assigned them; but that the most important subjects are not yet taken up, in expectation of the attendance of much larger numbers of the Convention soon, and earnestly requesting as early and general an attendance as possible.

Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That Mr. LOWELL be joined with the Secretary in the above advertisement.

It was then moved, and seconded, That the Convention be adjourned to to-morrow morning, at 10 o'clock, and the Convention was adjourned accordingly.

Pursuant to the above vote, the following advertisement was inserted, viz.

"The Delegates of the several Towns throughout this State, for forming a new Constitution of Government, who are absent, are hereby notified, that the Convention, on the 27th inst. after repeated adjournments, resolved upon proceeding to the business assigned them, and are accordingly now engaged in the same."

"The most important articles, such as Representation;—the several Departments of Government, with their respective powers and checks;—the mode of appointing militia and other officers;—and other matters of great weight, have not, as yet, been taken up, from the expectation of a more general attendance."

"It is, therefore, most earnestly requested, that gentlemen

would attend as early as possible, that those interesting subjects may be considered and acted upon, without occasioning an unnecessary delay to the members who attend."

By order of the Convention,

S. BARRETT, *Secretary.*

Boston, 29 *Jan.* 1780.

P. S. The printers of the Worcester, Providence and Hartford papers are desired to insert the above advertisement.

SATURDAY, 29th, 10 o'clock, A. M.

Met according to adjournment.

The Committee appointed to wait on the Clergy of the town of Boston, to request them to officiate as Chaplains to the Convention, during the session, reported, that they had not as yet completed the business assigned them, but that they had waited on the Rev. Dr. CHAUNCEY, the Rev. Dr. MATHER, and the Rev. Dr. COOPER, and that [the] two former gentlemen desired to be excused, on account of their age and infirmities, and the inclemency of the season, but that the Rev. Dr. COOPER would attend the service, this morning.

It being then moved and seconded, that the Convention proceed to business; a previous motion was made, that a convenient place be assigned to such gentlemen of the clergy, who shall officiate as chaplains to the Convention, as may incline to attend the debates. Which motion was superseded by a motion, made and seconded, that, on account of the inclemency of the season, the northwest corner of the chamber be appropriated to the convenience of such gentlemen as may incline to be present at the debates, instead of the gallery, and that the Secretary notify the same accordingly. Which, being put, passed in the affirmative, and the same was notified by an advertisement posted on the door accordingly.

The order of the day being called for, the Convention proceeded to business, and the 8th article, 3d section, 3d chap-

ter, 2d paragraph, as being next in the arrangement aforesaid, was read, and largely debated, when, on a motion made and seconded, it was voted that the further consideration of the same be postponed to a fuller Convention.

The 2d article of the 4th chapter was then read, and, after very extensive debates, the same was, on a motion made and seconded, voted to be recommitted. It being moved and seconded, that the Committee consist of seven, the same was put, and passed in the affirmative. A nomination being called for, the following gentlemen were appointed, viz:

The Hon. the President,
Mr. LOWELL,
Rev. Mr. CLARKE,
Hon. Mr. PICKERING,
Mr. JACKSON,
Mr. WASHBURN,
Mr. BRADLEY.

It was then moved and seconded, that the aforesaid Committee ("for revising the 2d article in the 4th chapter,") be instructed to take into consideration and report an article, which shall ascertain what offices, to be held under the Commonwealth, shall be declared incompatible with each other; what offices shall disqualify the possessor from holding a seat in either House of Assembly; and also what number and kind of offices, it may be inconsistent with the public good should be held by any one person, which, being put, passed in the affirmative.

The 5th article in the same chapter was then read and accepted.

The 3d article in the 5th chapter, being read, on a motion made and seconded,

Voted, That the same be recommitted.

It was moved, and seconded, that the Committee consist of three, which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen were appointed, viz:

The Hon. Judge LINCOLN,
Mr. ROBBINS, of Milton, and
Mr. ALLEN, of Worcester.

It was moved and seconded, that the report of arrangement of business be recommitted to the same Committee as brought it in; for such additions as may be proper.

Which, being put, passed in the affirmative. Rev. Mr. HAVEN, (one of the said Committee,) being absent, it was moved and seconded, that another gentleman be added to the same, which, being put, passed in the affirmative.

A nomination being called for, the Rev. Mr. CLARKE was appointed.

Mr. CLARKE desiring to be excused, a nomination was called for; and ELLIS GRAY, Esq. added to the Committee.

It was then moved and seconded, that the Convention be adjourned to Monday afternoon, at 3 o'clock.

The Convention was accordingly adjourned.

MONDAY, P. M. 3 o'clock, 31st.

On a motion, made and seconded,

Voted, That exact punctuality in attendance, at the hour of adjournment, be enjoined upon the members of the Convention.

The Committee for arrangement, not being ready to report, the 4th article, 5th chapter, was taken up and debated, the question upon which, being put, the same was accepted.

The 5th article was then read.

On a motion, made and seconded,

Voted, That the further consideration of this article be suspended, until there shall be a fuller Convention.

The 6th article being read and debated, it was, on a motion made and seconded,

Voted, That the same be taken up in paragraphs.

The first paragraph being read as far as the word "manner," the same was accepted. The 2d being then taken up from the words "and shall," to the end,

On a motion, made and seconded,

Voted, That the same be recommitted for alterations.

On a motion, made and seconded,

Voted, That the Committee consist of three.

A nomination being called for, the following gentlemen, viz:

JOHN LOWELL, Esq.
The Hon. Mr. ADAMS, and
The Hon. Judge LINCOLN,

were appointed, after which,

The Committee for arrangement made the following report of additional articles, to be acted upon in their order, by the Convention, viz:

15. The 1st paragraph, of the 1st article, in the 1st section, of the 2d chapter, page 15*

16. The 1st paragraph, 1st article, 2d section, same chapter, " 18

17. The 2d article of the same section, " 19

18. The 4th article of the same section, " 22

19. The 5th article of the same section, " 23

20. The 6th article of the same section, " 23

21. The 7th article of the same section, " 23

22. The 8th article of the same section, " 23

23. The 3d article of the 3d section, in the 2d chapter, " 26

24. The 6th article of the same section, " 27

25. The 7th article of the same section, " 28

26. The 1st, 2d, 3d and 4th articles of the 1st section, in the 3d chapter, pages 29–30

27. The whole fo the 2d section, in the 3d chapter, " 37–38

28. The whole of the 3d section, in the same chapter, not yet acted upon, pages 39–40–41

29. The whole of the 4th section, of the same chapter, page 42

30. The remainder of the 1st section, in the 3d chapter, beginning at the 5th article, " 31

31. The whole of the 4th chapter not as yet acted upon, " 43

32. The whole of the 5th chapter not acted on, 44–45

33. The whole of the 6th chapter not acted on, page 47

34. The last paragraph, of the 1st article, 2d section, of the 2d chapter, " 19

* Reference is here probably made to the *printed* Copy of the Report of the Committee for preparing a frame of Government. (See page 36 of this volume.)

35. The 3d article of the same section, " 21
36. The 6th article of the 3d section, of the 2d chapter, page 27
37. The 7th article of the same section, " 27
38. The 3d article of the 3d section, 2d chapter, " 26
39. The last paragraph, of the 1st article, in the 2d chapter, " 17
40. The 1st article of the same section, " 24
41. The 2d article of the same section, " 24
42. The 9th article of the same section, " 27

Previously to acting upon the preceding report, the Committee on the 3d article, in the 5th chapter, last paragraph, reported the following substitute for the same, viz:

"They shall bear test of the first Justice of the Court, to which they shall be returnable, who is not a party, and be signed by the Clerk of such Court."

Which, being read and accepted, the whole article, with the preceding amendment, was then put and accepted.

The report of the Committee of arrangement was then taken up, and the first paragraph, of the 1st article, 1st section, in the *1st chapter, was read. The same being largely debated, and several amendments proposed, the further proceedings thereon were suspended, by a motion made and seconded, that the Convention be adjourned to to-morrow morning, 10 o'clock, which, being put, passed in the affirmative, and the Convention was adjourned accordingly.

TUESDAY MORNING, 1st Feb., 10 o'clock.

Met according to adjournment.

The 1st paragraph, of the 1st article, 1st section, and 2d chapter, was resumed, and debated.

It was then moved and seconded, That the following words be substituted, viz:

"That in the department of legislation, there shall be a Senate and House of Representatives, each of which shall have a negative on the other," which, being put, passed in the affirmative.

* Probably mistake, should be, it is thought, 2d chapter.

On a motion, made and seconded,

Voted, To reconsider the last vote, the paragraph then lying open to debate.

The question upon the same being called for, a previous question was moved and seconded, viz: That should the paragraph in the present form be accepted, the terms, in which it now stands, shall not preclude debate on the 3d paragraph in the same article, which, being put, passed in the affirmative.

The paragraph, as it now stands in the report, was then put and accepted.

The first paragraph, of the 1st article, 2d section, 2d chapter, was then read and debated.

On a motion, made and seconded,

Voted, That the words "Counsellors and," be expunged, through the paragraph.

The debates were then suspended, by the Convention being called to morning prayers—the Rev. Mr. HOWARD attending for that purpose; after which, the debates were resumed, and

On a motion, made and seconded, it was

Voted, That the article be taken up in paragraphs.

The 1st paragraph, as far as "Election," was accordingly read and debated.

The question being called for, the paragraph was accepted: 28 out of 46.

A motion was made and seconded, That the Convention be adjourned to 3 o'clock, P. M.: which, being put, passed in the affirmative, and the Convention was adjourned accordingly.

Three o'clock, P. M. Met according to adjournment.

On a motion, made and seconded,

Voted, That as the weather is moderate, the galleries be again opened.

The 2d paragraph, 1st article, 2d section, 1st chapter, was read, and after being very largely debated, the same was put, and accepted, by a general vote.

The 3d paragraph, as far as the proviso, was then read, and

fully debated, when the further consideration of the same was suspended by a motion, made and seconded, that the Convention be adjourned to to-morrow morning, 10 o'clock.

The Convention was adjourned accordingly.

WEDNESDAY MORNING, 10 o'clock.

Met according to adjournment.

The 3d paragraph, 1st article, 2d section, in the 2d chapter, was resumed and debated.

The order of the day being called for, it was moved and seconded, that the debates upon the paragraph under consideration subside for the present, and that the Convention take up the subject of Representation, which, being put, passed in the negative.

The Rev. Mr. STILLMAN then prayed with the Convention.

On a motion, made and seconded,

Voted, That to-morrow, at 11 o'clock, A. M. be assigned to consider the subject of Representation. It was then moved and seconded, That the paragraph, which has been under consideration this morning, until the order of the day was called for, be postponed until to-morrow afternoon, 3 o'clock, which, being put, passed in the negative.

The paragraph aforesaid was accordingly again under consideration, and largely debated.

The question being called for, the same was voted 39 in 57.

The 4th paragraph, containing the proviso, was then read and debated.

It was moved and seconded, That the words "more than sixteen nor," be expunged, which, being put, passed in the affirmative.

It was then moved and seconded, That the word "thirteen," be substituted instead of the word "ten," which, being put, passed also in the affirmative.

The whole paragraph, with the amendment, was then put, and accepted.

The 2d article, in the same section, which prescribes the time and mode of electing and returning Senators, was then read.

On a motion, made and seconded, That the words "Counsellors and," through the article be expunged, which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the article be taken up in paragraphs.

The 1st paragraph as far as District, being read and debated,

On a motion, made and seconded,

Voted, That Judge LINCOLN be desired to consult the law of this State respecting the removal of poor persons to towns of which they are not inhabitants, and make report.

On a motion, made and seconded,

Voted, That the Convention be adjourned to 3 o'clock, P. M. and the Convention was adjourned accordingly.

Three o'clock, P. M. Met according to adjournment.

Judge LINCOLN reported the Law or Act of the State, made and passed in the 7th year of the reign of George the Third, (Chapter 3) page 359, entitled "an act in addition to the several laws already made relating to the removal of poor persons out of the towns whereof they are not inhabitants," which, being read, a debate ensued on the question, what constitutes inhabitancy, after which the 1st paragraph, in the 2d article, 2d section, 2d chapter, being again under consideration, it was moved and seconded, that the words "inhabitant of such town," be inserted in lieu of persons, and the words "resident in such towns one year next preceding the annual election of Senators."

It was also moved, that the word "inhabitant," be substituted, and a Committee be appointed to give a proper explanation of the term, also that the words "inhabiting or dwelling," [be inserted] in lieu of the word "residing."

Which several motions were respectively superseded by a motion made and seconded, that the paragraph, as far as the words "next preceding the annual election of Senators," be committed, which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz:

Mr. LOWELL,

Mr. SUMNER, and

Genl. BROOKS, were appointed.

A previous motion was then made and seconded, that the

words "each town," be substituted in lieu of "all the towns," in the second sentence of the paragraph, before commitment.

Which, being put, passed in the affirmative.

A motion was then made and seconded, that the paragraph be now committed, which, being put, passed in the affirmative.

The last clause in the paragraph was then read and accepted.

The 2d paragraph was then taken up, and, after some debate, it was moved and seconded, that the words, " and shall be under oath," &c. to the end of the paragraph, except the words " impartially," " and," be expunged,—and the preceding words of this paragraph be connected with the next paragraph.

The same, being put, passed in the affirmative.

The two paragraphs being thus blended, it was moved and seconded, that the words " the selectmen," before the words " shall receive," be expunged, which, being put, passed in the affirmative.

It was then moved and seconded, that the words " present and," be inserted between the words " towns " and " qualified."

The question on the paragraph was then put, and the same was accepted.

The 3d paragraph being then read, the same was accepted.

The 4th article in the same section, as next in order in the arrangement, was then taken up.

Previously to entering upon which, it was moved and seconded, that a clause be added to the article last passed upon, giving the selectmen power to receive the votes of such persons as may be absent on the election of Senators.

A previous question was then moved, viz :

Whether any addition be made to the said article.

It was also moved, and seconded, that some method be adopted in the Constitution, either by fine or otherwise, to induce a general attendance of the freeholders on elections.

Which several motions were superseded by a general motion, made and seconded, That a Committee be appointed, to consider and report some mode of inducing a general attendance of the freeholders on the election of Senators and Representatives, and also of the expediency of an article, which shall empower the Selectmen of the several towns through the State, under certain restrictions, to receive the votes of such persons

as may be absent on such elections. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz.

The Hon. Mr. PAINE,
Mr. LOWELL,
Mr. JACKSON,
Mr. BEMENT, and
The Hon. Mr. ADAMS, were appointed.

It was then moved, and seconded, that the seats in the north-west corner of the chamber be assigned (while unoccupied by the Convention) be appropriated to the convenience of such gentlemen of the Honorable Board of Counsellors of the State, who may incline to be present at the debates.

Which, being put, passed in the affirmative.

The 4th article was then resumed.

On a motion, made and seconded,

Voted, That the same be taken up in paragraphs.

The 1st paragraph being read, as far as the word "members," it was moved, and seconded, [that] "as pointed out in the Constitution," be added after the word "members," which, being put, passed in the affirmative; it was then moved, and seconded, that the word "however," in the 1st line be expunged, which, being put, passed in the affirmative.

The question being then put upon the paragraph, the same was accepted with the amendments.

The 2d paragraph being read, and sundry amendments proposed, it was moved, and seconded, that the same be passed over for the present, subject however to revision;

Which, being put, passed in the affirmative.

The 3d paragraph, as far as "district," in the last line but two, being read, and debated, the further consideration of the same was postponed, by a motion, made and seconded, that the Convention be adjourned to to-morrow morning, 9 o'clock, which, being put, passed in the affirmative, and the Convention was adjourned accordingly.

THURSDAY, A. M. 9 o'clock, 3d Feb.

Met according to adjournment.

The 3d paragraph, 4th article, 2d section, 2d chapter, was re-

sumed and debated. It was then moved, and seconded, that the words "shall take the names of such persons as shall be found to have the highest number of votes in such district and not elected, amounting to twice the number of Senators wanting, if there be so many voted for," be substituted in lieu of the words "shall take," &c. as far as the words "not elected," which, being put, passed in the affirmative.

It was then moved and seconded, to add to the word "majority," the words "or in case there should not be a majority, at least two fifths of the votes," and to the words "highest numbers," "not less than one quarter," and at the close, that the addition be made of the following words, viz: "and in case no person has so many as one quarter of the votes, the two Houses shall choose the number of Senators wanting, out of the county at large."

It was also moved and seconded, that the words following be introduced viz: "In case there shall be no majority, the two Houses shall choose out of those, who have not less than two fifths of the votes, the number of Senators wanting; but in case no person shall have two fifths of the votes, then the choice be renewed by the electors."

It was also moved and seconded, that the choice of Senators be made by deputies from the several towns, to meet in county or district conventions, for that purpose. Withdrawn for the present.

The Rev. Mr. LATHROP was introduced, and prayed with the Convention.

The order of the day being called for, on the question whether the Convention will now proceed to consider the subject of Representation, it was moved and seconded, that the same be referred to to-morrow morning, at 11 o'clock, which, being put, passed in the affirmative.

The several motions previous to the last, were then taken up, and debated generally, when, on a motion, made and seconded,

Voted, That Mr. LOWELL, was [be] directed to reduce to writing his motion, and report the same at the adjournment, for the consideration of the Convention.

It was then moved and seconded, that the Convention do not in future adjourn until half past one, which, being put, passed in the negative.

It was then moved and seconded, that the Convention be now adjourned to 3 o'clock, P. M.

Three o'clock, P. M. Met according to adjournment.

The 3d paragraph, the 4th article, 2d section, 2d chapter, was again taken up.

Mr. LOWELL, not being ready to report, it was moved to proceed to the next paragraph.

The 4th paragraph being connected with the preceding, it was, on a motion made and seconded,

Voted, To proceed to the next and 5th article, and to consider the same in paragraphs.

The 1st paragraph was then read and debated, when it was moved and seconded, that the word "Protestant," be inserted in lieu of the word "Christian," which, being put, passed in the negative.

The question was then put upon the paragraph so far as it takes up the qualification of religion. The same was rejected, and the words "of the Christian religion and," voted to be expunged.

The 2d paragraph, as far as £300 at least, was then read, when it was moved and seconded, that the words "seized in his own right of a freehold," be expunged, and the words "possessed of an estate real or personal," be inserted. Withdrawn.

It was also moved and seconded, that, after the words "at least," be added the following words—"seized or possessed of personal estate to the value of six hundred pounds." 41 out of 59.

The 3d and last paragraph was then read, and after some debate, it was moved and seconded, that the word "seven," be expunged, and the word "three," be substituted, which, being put, passed in the affirmative.

It was then moved and seconded, to expunge the word "three," next succeeding to the word "years," and substitute the word "one," which, being put, passed in the affirmative.

It was then moved and seconded, that the last vote be reconsidered, which, being put, passed in the affirmative.

It was then moved and seconded, that the words "three of which," be expunged, which, being put, passed in the affirmative.

It was then moved and seconded, that the word "five," be substituted in lieu of the word "three," which, being put, passed in the affirmative.

It was then moved and seconded, that the words "at the time of his election he shall be an inhabitant," be inserted between the word "and," and the word "in," in the last line, which, being put, passed in the affirmative.

It was then moved and seconded, that the words "or of both to the amount of the same sum," be added immediately after the words "six hundred pounds at least," which, being put, passed in the affirmative.

Mr. LOWELL then reported the following paragraph, which was moved and seconded, to be a substitute to the 3d paragraph, in the preceding article, viz:

And in case the Senators of any district, or either of them, are not elected by a majority of the votes returned, then the vacancy or vacancies shall be filled up by the Senate and House of Representatives, out of the number of those voted for, who shall be found to have more than two fifths of the votes returned from such district; provided, there are among those who have not been chosen, as many as three persons to two vacancies, who have more than two fifths of such votes; and if there should not be so many, so qualified, then such as are still unchosen, shall be elected out of those who have one fifth part, at least, of the votes returned, taking double the number of those so qualified, if so many there be, and those who have the greatest number of votes, and from thence filling up such vacancy or vacancies; and if there shall not be as many as three to two for filling up such vacancy or vacancies, who have one fifth part of the votes returned from such district, then the Senate and House of Representatives may fill up such vacancy or vacancies, by an election of any person or persons qualified as by this Constitution is required, out of the district at large. Which report was postponed, by a motion made and seconded, that the Convention do now adjourn to to-morning, 9 o'clock.

4th Feb. FRIDAY MORNING, 9 o'clock.

The Convention met according to adjournment.

The 6th article, 2d section, 2d chapter, was then read, and accepted.

The 7th article, the same section, was then read, and accepted.

The 3d article, 3d section, the same chapter, was read, and voted to be considered in paragraphs.

The 1st paragraph, as far as "written votes," read and accepted.

The 2d paragraph, as far as "Christian religion," was then read, whereupon moved and seconded, that the words "he be of the Christian religion and," be expunged, and that the word "he," be inserted between the words "election," and "shall."

The Rev. Mr. STILLMAN was then introduced, and prayed with the Convention.

A previous question was then moved and seconded, that a general clause be introduced, which shall exclude, from any seat in the government of this Commonwealth, any sort of persons who hold that any foreign jurisdiction, civil or ecclesiastical, hath any controlling power or authority, over the government, or subjects of the same, which motion was superseded by a motion, made and seconded, that a Committee be appointed to form a declaration, or test, wherein every person, before he takes his seat as a Representative, Senator, or Governor, or enters upon the execution of any important office or trust in the Commonwealth, shall renounce every principle (whether it be Roman Catholic, Mahometan, Deistical, or Infidel,) which has any the least tendency to subvert the civil or religious rights established by this Constitution.

Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz.

The Hon. Mr. PICKERING,
Mr. PHILLIPS,
Mr. GORHAM,
Mr. HALL, and
The Hon. Mr. ADAMS, were appointed.

The order of the day being called, it was moved and seconded, that the subject of Representation be now considered, whereupon a motion was made, and seconded, that the number of towns be returned by Counties.

It was (previous to the motion for adjournment,) moved and seconded, that the consideration of the subject of Representation be assigned to Wednesday next, at eleven o'clock.

A previous question was then moved and seconded, whether the question be now put, which motion was superseded by a motion, made and seconded, that the Convention now adjourn, which, being put, passed in the affirmative, and the Convention was accordingly adjourned to 3 o'clock, P. M.

Friday P. M., three o'clock,

Met according to adjournment.

It was moved, and seconded, that the question moved, and seconded, in the morning, " whether the question relative to the return of House by Counties be put," be assigned to 5 o'clock, this afternoon ; which, being put, passed in the affirmative.

It was then moved, and seconded, that the question moved, and seconded, in the morning :—" whether the further consideration of the subject of Representation be postponed to Wednesday next at 11 o'clock," be assigned to 6 o'clock, this afternoon.

It was moved, and seconded, that reference might be had to the 1st article, 2d section, 2d chapter, and the words " in and," in the 6th line be expunged. Which, being put, passed in the affirmative.

It was then moved, and seconded, to proceed in the consideration of the 3d article, 3d section, which was under debate in the morning, which, being put, passed in the affirmative.

The 2d paragraph was accordingly resumed, and, on a motion, made and seconded,

Voted, To pass over the same for the present.

The 3d paragraph was then read, and the 1st part of the same accepted ; the 2d part of it being read, it was moved, and seconded, that the words, " or any other rateable estate to the value of two hundred pounds," be added after the word " pounds," which, being put, passed in the affirmative.

The 4th paragraph being read, it was moved, and seconded, that the words to be "qualified as abovementioned," be substituted in lieu of the words "be a freeholder within the same."

Which, being put, passed in the affirmative.

The 6th article, in the same section, was read and accepted.

The 7th article, in the same section, was then read and accepted.

The 1st article, 1st section, 3d chapter, was then read, whereupon, on a motion, made and seconded,

Voted, To reconsider the 3d paragraph of the 4th article, 2d section, page 22d, and the report of a substitute, made by Mr. LOWELL, for the same, was read and considered.

It was moved, and seconded, to take up the same in paragraphs, which, being put, passed in the affirmative.

[The] 1st paragraph was then read as far as the word "district," in the 6th line, and debated, when it was moved, and seconded, that the Convention go into consideration of some mode to fix upon an adjournment of the several town meetings convened for the election of Senators, over the precise day stated in the report of the general committee, for the declaration of the choice of Senators, or for filling up such vacancies as may happen, and also of a mode of seasonably notifying the electors, in order to a new choice, in case of such vacancies.

Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of five.

A nomination being called for,

The Hon. Mr. CHOATE,
Maj. WASHBURN,
Mr. GORHAM,
Mr. WEST, and
Mr. BEMENT, were appointed.

It was then moved, and seconded, that the election of Senators be made by Delegates from the several towns in County Conventions.

It was also moved, and seconded, that the person or persons, to whom the return of votes for Senators is directed by the Constitution to be made, and no person shall be found to have

the majority of votes, shall take double the number of those who shall have the highest number of votes, and return the same to the electors, in order that the vacancies may be, by them, filled up out of the said numbers thus returned to them.

Five o'clock.

The order of the day being called for,

It was debated largely, whether the previous question aforesaid be now put, whereupon the motion for the same was withdrawn, and the motion for a return of the House by Counties put and passed in the affirmative. The return was accordingly made, upon which it appeared, that sixty two towns were represented by eighty four members.

Six o'clock.

The order of the day being called for, and the question, whether the subject of Representation shall be assigned (to be considered by the Convention,) to 11 o'clock, on Wednesday next, A. M.

It was then moved, and seconded, that the Convention be adjourned to a distant day; which, being fully debated, the motion on the order of the day was put, and passed in the affirmative.

A debate ensuing on the propriety of putting the motion for [the] order of the day before the motion for adjournment to a distant day, it was moved, and seconded, that the vote for assignment be reconsidered, which, being put, passed in the negative.

It was then moved, and seconded, that Wednesday next be assigned to the further consideration of the motion for adjournment to a distant day; which was superseded by a motion, made and seconded, that the Convention be adjourned to to-morrow morning, 9 o'clock,

Which, being put, passed in the affirmative, and the Convention was adjourned accordingly.

SATURDAY MORNING, 5. Feb. 9 o'clock.

Met according to adjournment.

The motion made by the Hon. General HANCOCK, for an assignment, &c. was taken up. Withdrawn.

The 1st article, 1st section, 3d chapter, was read, and postponed to a fuller Convention.

The three following articles were also suspended for the present, on the same grounds.

The 2d section, of the same chapter was also postponed.

The 3d section, of the same chapter—ditto.

The 4th section of the same chapter—ditto.

The Committee on the 2d article, and for ascertaining the offices which are incompatible with a seat in the Legislature, and those which it may be inconsistent with the public good to be held by any one person, reported in part as follows:

The Committee to whom was referred the 2d article, of the 4th chapter, of the report of the General Committee, have revised the said article, and report, that the following officers and persons be excluded from a seat in either House of Assembly, besides the Judges of the Superior Court, viz.

A.* The Judges of the Inferior Court.

Judges of the Maritime Court.

Judges of Probate.

Sheriffs, commonly called High Sheriffs.

Attorney General.

Solicitor General.

Register of Deeds.

Register of Probate.

Clerk of the House of Representatives.

Secretary.

Treasurer or Receiver General.

Commissary General.

* Some of the references marked in the Journal by the letters "A." "B." &c. were to documents not now to be found among the papers of the Convention. Several of them, however, relate to Reports which are inserted at the end of the Journal. The marks of reference have been in all instances retained.

Officers of the Customs or Excise, including in this description, Naval Officers.

Militia Officers, while in the pay of this Commonwealth, the United States, or any other State or Government.

President, Professors, Tutors and Instructors, of Harvard College.

Ordained or settled Ministers of the Gospel.

It was then moved, and seconded, that officers, proposed by the foregoing report to be excluded from a seat in either House of the Legislature, be put up separately for the consideration of the Convention, which, being put, passed in the affirmative.

The Judges of the Superior Court were accordingly put, and voted to be excluded, and the 2d article, in the 4th chapter aforesaid, accepted.

It was then moved, and seconded, that the 3d article, in the same chapter, be now acted upon, which, being put, passed in the negative.

The Rev. Mr. PARKER, of Trinity Church, was then introduced, and read prayers.

The said article was accordingly suspended for the present.

C. The Judges of the Inferior Court were then put, and voted to be excluded.

It was moved, and seconded, that a Committee be appointed to consider of the propriety of annihilating the Court of General Sessions of the Peace, and annexing the business, usually done in that Court, to the Court of Common Pleas.

On a motion, made and seconded,

Voted, That the Committee consist of five.

A nomination being called for, the following gentlemen were appointed, viz. The Hon. Mr. PAINE,
Mr. LOWELL,
Mr. PICKERING,
Mr. JACKSON, and
Col. CUMMINGS.

The Judges of the Maritime Courts were then put, and voted to be excluded.

It was moved, and seconded, that the exclusion in the vote last immediately preceding, be confined to such times, as this

State shall be engaged in war, which, being put, passed in the negative.

The Judges of Probate of Wills, and for granting letters of administration and guardianship, were then put, and voted to be excluded. B.

The Sheriffs, usually called High Sheriffs, were put, and voted to be excluded.

The Attorney General was then put, and voted to be excluded.

The Solicitor General was put, and voted to be excluded.

The Registers of Deeds were then put, and voted to be excluded.

The Registers of Probate were put, and voted to be excluded.

The Clerk of the House of Representatives was put, and voted to be excluded.

The Secretary of the State was put, and voted to be excluded.

The Treasurer or Receiver General was put, and voted to be excluded.

The Commissary General was put, and voted to be excluded.

Officers of Customs and Excise, including Naval Officers, were put, and voted to be excluded.

Militia officers, while in the pay of the Commonwealth, or of the United States, or any other State or Government, being put, it was moved, and seconded, that the consideration of the same subside, until the mode of appointing them shall have been determined upon by the Convention, which, being put, passed in the affirmative.

D. A motion was then made, and seconded, that the vote for excluding the Clerk of the House of Representatives from a seat as a member of the Legislature, be reconsidered, which, being put, passed in the negative.

A motion was then made, and seconded, that, previous to entering upon business on the first day of every week, the President direct the Orders of the House to be distinctly and audibly read, and enjoin upon the monitors, to see that the same are punctually complied with, which, being put, passed in the affirmative.

It was then moved, and seconded, that the consideration of the remaining articles in the report aforesaid, be referred over to the time when the Committee, on the same and other articles aforesaid, shall be ready to complete their report. Which motion, being withdrawn, it was moved, and seconded, that, Wednesday next, afternoon, 3 o'clock, be assigned for the consideration of the remaining articles in the said report, which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be now adjourned to Monday next, at 3 o'clock, P. M. Which, being put, passed in the affirmative.

And the Convention was accordingly adjourned to that time.

Three o'clock, MONDAY P. M., 7th Feb. 1780.

The Convention met according to adjournment.

The rules and orders of the Convention were read, and the strict observance of them enjoined upon the members, by the President.

Moved and seconded, that a Committee be appointed to bring in such further rules and orders as may be necessary for the better conducting the debates of the Convention.

On a motion, made and seconded,

Voted, That the Committee consist of three.

A nomination being called for, the following gentlemen, viz:

The Hon. Mr. PAINE,

Col. WILLIAMS, and

The Rev. Mr. THATCHER, were appointed.

The 4th section, 3d chapter, was then taken up, as next in the arrangement, and considered.

On a motion, made and seconded,

Voted, To consider the several Officers, mentioned in the article, distinctly.

Accordingly, the Secretary being put, it was

Voted, That he be elected as set forth in the article.

The Treasurer and Receiver General, the Commissary General, Notaries Public, and Naval Officers, being severally put, they were respectively voted to be elected as above.

The second paragraph was then read, and debated, when it was moved and seconded, that the word "five," be expunged, and the word "three" substituted in its stead, in the last line.

Which, being put, passed in the negative.

It [was] then moved and seconded, that the word "four," be substituted in lieu of the word "five," aforesaid, which, being put, passed in the negative.

It was then moved, and seconded, that the article be now put. The article was accordingly put, and accepted without amendment.

The 2d article in the same section was then read,

Whereupon, moved and seconded, that, in all articles, in which the words "Governor and Council" shall occur, the consideration of the same shall be suspended, until the Convention shall consider and determine respecting their appointment to a share in the Government of this Commonwealth, and the article be considered and acted upon without them.

The article aforesaid was then put and accepted, with the suspension of the words aforesaid.

Reference being again had [to] the report of arrangement, the 5th article, 1st section, 3d chapter, was read, and the consideration of the same, on a motion, made and seconded, voted to be postponed.

The 1st article, 4th chapter, was then read.

On a motion, made and seconded,

Voted, to be taken up in paragraphs.

The 1st paragraph, as far as "Commissions," was read and accepted.

The 2d paragraph, being read and debated, on a motion, made and seconded,

Voted, That the further consideration of this article be postponed for the present.

The 3d article in the same section was then read.

On a motion, made and seconded,

Voted, That the words "each Branch of the Legislature," be

substituted in lieu of the word " Senate," and the words " Justices of the said Courts," in lieu of the word " Judges."

The 4th article was then read, and, on a motion, made and seconded,

Voted, to be considered in paragraphs.

The 1st paragraph, as far as " dates," was then read and accepted.

The 2d paragraph being read, it was moved, and seconded, that the words " and upon the expiration of any commission, the same, if necessary, may be renewed, or another person appointed," be substituted in the place of the words " and on the expiration of any Commission, the Governor, with advice and consent of Council, may renew such Commission, or, if necessary, appoint another person."

It was also moved, and seconded, that the words, " or before," be inserted between the word " on," and the words, " the expiration."

Which motions were severally debated, when the further consideration of them was postponed by a motion, made and seconded, that the Convention be now adjourned to to-morrow morning, at nine o'clock, which, being put, passed in the affirmative, and the Convention was adjourned accordingly.

TUESDAY MORNING, 9 o'clock. 8 Feb.

Met according to adjournment.

The Convention resumed the consideration of the 2d paragraph, in the 4th article, and 4th chapter, which, being read, and the amendment proposed, yesterday, that the words " the same, if necessary, be renewed, or another person appointed," be substituted in lieu of the words " the Governor and Council may, if necessary, renew such Commission, or appoint another person," being debated, the same was put, and accepted.

It was then moved, and seconded, that [the] words " or before," proposed yesterday, with the addition of the words " at least six months," viz: " or six months at least, before," be inserted between the words " on," and " the expiration," which, being put, passed in the negative.

The article was then put, with the amendments, and accepted.

The 6th article in the same chapter, was then read, during the debates on which, the Rev. Mr. LEWIS was introduced, and read prayers with the Convention.

It was moved and seconded, that the several matters contained in the said article be determined by the Superior Court instead of the Governor and Council, and the Senate, respectively.

Which motion was superseded by a motion, made and seconded, that the further consideration of this article be postponed. Which, being put, passed in the affirmative.

The 1st article, in the 5th chapter, being then read, it was voted to take the same up in paragraphs.

The 1st paragraph, as far as the word "room," being read, it was on a motion, made and seconded,

Voted, That the word "annually," be transposed, so as to stand after the word "November," in the 4th line.

The 2d paragraph being read, it was on a motion, made and seconded,

Voted, That the words "under the hand of the Governor," be omitted for the present; whereupon the article was put, with the omission aforesaid, and accepted.

The 2d article being read, and being amended as the last, was accepted.

The 5th article was then read, and voted to be postponed.

The 2d paragraph, of the 6th article, was read, but the same having been committed, and the Committee not being ready to report, the same was voted to be passed over for the present.

The 7th article was read, and voted to be further postponed.

The 3d article, in the 6th chapter, being read, the same was voted to be further postponed.

The 2d paragraph, 1st article, 2d section, 2d chapter, was then read, when a motion was made by the Hon. Mr. PICKERING, that a clause be introduced into this article, limiting the number, which no County or District shall exceed in the choice of Senators; whereupon, it was moved, and seconded, that Mr. PICKERING be desired to prepare a clause as aforesaid, and lay the same on the table; which, being put, passed in the affirmative.

The paragraph was then put, and accepted.

The 3d article, in the same section, was read, and voted to be postponed.

Mr. PICKERING then reported the following clause, to be added to the 1st paragraph of the 1st article, aforesaid, viz.—And no District be so large as to entitle the same to choose more than six Senators.

Which, being put, was accepted, as an addition to the paragraph aforesaid.

On a motion, made and seconded,

Voted, That the Committee, upon the powers and privileges of the House of Representatives, take into consideration the privileges of the Senate, with their power of expelling their own members.

The Committee appointed to prepare a declaration or test, &c. (see the votes of 4th inst.) reported the same as follows;—

"Any person, chosen Governor, Lieutenant Governor, Counsellor, Senator, or Representative, or appointed to any Judicial, Executive, Military, or other Office, under the Government of this Commonwealth, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following oath, viz.

I, A. B. do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign and independent State; and I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against all traitorous conspiracies and attempts whatsoever; and that I do renounce and abjure all allegiance, subjection and obedience to George the 3d, King of Great Britain, his heirs and successors, and every other foreign power whatsoever; and that no foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any jurisdiction, superiority, preeminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth, except the authority and power which is or may be vested by their constituents in the Congress of the United States. And I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligations of this oath

or declaration, and that I do make this acknowledgment and profession, testimony, declaration, renunciation, and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me God.

Provided always, that, when any person, chosen or appointed as aforesaid, shall be of the denomination of people called Quakers, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "I do swear," "abjure," "oath or," and "abjuration," and "so help me God."

Which report, being read, on a motion, made and seconded,

Voted, That the same be taken up in paragraphs.

The 1st being read, it was, on a motion, made and seconded, voted, that the words Governor, Lieutenant Governor, and Counsellor, be omitted for the present.

The paragraph being then put, with the amendment, the same was accepted as the preamble.

The 2d paragraph in the report, and first of the oath, as far as "State," was put, and accepted.

The 3d as far as "Commonwealth," was put, and accepted.

The 4th as far as "whatsoever," was put, and accepted.

The 5th as far as "power whatsoever," was put, and accepted.

The 6th as far as "United States," was put, and accepted.

The 7th as far as "Declaration," was put, and accepted.

The 8th as far as "so help me God," was put, and accepted.

The 9th, being the 1st in the proviso, as far as "subscribe the same," was put, and accepted.

The 10th as far as "I do swear," was put, and accepted.

The 11th as far as "attempts whatsoever," was put, and rejected.

The 12th as far as "abjure," was put, and accepted.

The 13th as far as "abjuration," was put, and accepted.

The 14th and last, being the words, "so help me God," was put, and accepted.

It was then moved, and seconded, that the following words be added to the proviso, viz. "and subjoining the words this I do under the pains and penalties of perjury," which, being put, passed in the affirmative.

It was then moved, and seconded, to reconsider the 4th para-

graph, so far as to expunge the words "George the 3d, King of Great Britain, his heirs and successors," and to substitute, in lieu of the same, the words, "King, Queen, or Government of Great Britain, as the case may be," which, being put, passed in the affirmative.

It was then moved, and seconded, that the words, "deny and," be inserted between the words "do," and "renounce," in the 5th paragraph. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the word "all," be transposed, and stand before the word, "attempts," in the 4th paragraph. Which, being put, passed in the affirmative.

The report, being then put, with the amendments, the same was accepted, and is as follows:

"Any person, being chosen Senator or Representative, or appointed to any Judicial, Executive, Military, or other Office, under the Government of this Commonwealth, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following oath or affirmation:

I, A. B. do truly and sincerely acknowledge, profess, testify, and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign and independent State. And I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traitorous conspiracies, and all hostile attempts whatsoever: And that I do deny, renounce, and abjure all allegiance, subjection, and obedience to the King, Queen, or Government of Great Britain, (as the case may be,) and every other foreign power whatsoever. And that no foreign Prince, Person, Prelate, State, or Potentate hath, or ought to have, any jurisdiction, superiority, preeminence, authority, dispensing, or other power, in any matter, civil, ecclesiastical, or spiritual, within this Commonwealth, except the authority and power which is or may be vested by their constituents in the Congress of the United States. And I do further testify and declare, that no man, or body of men, hath or can have any right to absolve or discharge me from the obligations of this oath, declaration or affirmation. And that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation, and abjuration, heartily

and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation, whatsoever. So help me God.

Provided always, That when any person, chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall refuse to swear as aforesaid, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "I do swear," "and abjure," "oath or," "and abjuration," "so help me God," and subjoining the words, "And this I do under the pains and penalties of perjury."

It was then moved and seconded, that the Convention be now adjourned.

Which motion was suspended by a motion, made and seconded, that when the Convention shall be adjourned, it be adjourned to to-morrow morning, 9 o'clock, which, being put, passed in the affirmative.

It was then moved and seconded, that the Committee on the 10th article, 3d section, 2d chapter, in the report of the General Committee, be now filled up, several gentlemen who were appointed on the same being absent, which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen were added to that Committee, viz: Col. CUMMINGS and Mr. CABOT.

It being suggested to the Convention that several gentlemen, who were appointed on other Committees besides the above, were now absent, and that the business would be much impeded, unless the same be filled up,

On a motion, made and seconded,

Voted, That Mr. CABOT and the Rev. Mr. CUMMINGS, be added to the several Committees aforesaid, viz: on the 2d paragraph, 6th article, 5th chapter.—1st paragraph, 2d article, 2d section, 2d chapter.—4th article in the same section—and the 2d article, 4th chapter, &c.—and to the Committee for annexing the business of the Court of General Sessions of the Peace to the Court of Common Pleas.

It was then moved and seconded, that the Committee on the 1st paragraph, 2d article, 2d section, 2d chapter, be authorized to bring in a general clause, which shall ascertain the sense in which the term inhabitant shall be understood, throughout the

report of the General Committee, which, being put, passed in the affirmative.

It was then moved and seconded, that the Convention be now adjourned.

Which, being put, passed in the affirmative, and the Convention was accordingly adjourned to 9 o'clock to-morrow morning.

WEDNESDAY MORNING, 9 Feb.

The Convention met according to adjournment.

The Committee on the 1st paragraph, 2d article, 2d section, 2d chapter, reported that the word "person," be expunged, and the word "inhabitant," inserted. That the words "next preceding the annual election of Senators," be expunged, and that the words following be added, viz: "And to remove all doubts concerning the meaning of the word "inhabitant," in this Constitution, every person shall be considered as an inhabitant, for the purpose of electing or being elected into any office or place within this State, in that town, district, or plantation where he dwelleth or hath his home."

This report was then voted to be considered in paragraphs.

Before the same were put, the Rev. Mr. ELIOT was introduced, and prayed with the Convention.

The report was then considered, and debated in paragraphs, each of which, being separately put, were accepted.

It was, in the course of the debates on the above report, moved and seconded, that the word "male," in the article, be expunged. Which, being put, passed in the negative.

It was moved and seconded, that the words "of which he is an inhabitant," be added to the word "district," at the close of the 1st paragraph, in the report of the General Committee, which, being put, passed in the affirmative.

The Committee on the 6th article, in the 5th chapter, reported as follows, viz:

That the words following the word "except," (in the article,) be expunged, and the words following be added, viz: "in a

time of war, and then only as to such persons who shall be charged with being in the interest of the enemy, and but for the space of forty days; nor shall such suspension operate with respect to any person who has once been liberated on such writ, until twenty days after such liberation."

Which report, being largely debated, it was moved, and seconded, that the further consideration of the preceding report be assigned to four o'clock, to-morrow afternoon. Which, being put, passed in the affirmative.

The order of the day being called for, and largely debated; when, on a motion, made and seconded, it was

Voted, That the subject of Representation be assigned to to-morrow morning, 11 o'clock, to be then taken up and considered.

The subject of adjournment to a distant day, being again agitated, on a motion, made and seconded,

Voted, That half-past 3 o'clock this afternoon, be assigned to consider and determine, once for all, whether the Convention will proceed in the business of framing a new Constitution of Government.

A motion was then made, and seconded, that the Convention be now adjourned to 3 o'clock, P. M. Which being put, passed in the affirmative.

The Convention was accordingly adjourned.

Three o'clock, P. M. Met according to adjournment.

The order of the day being called for, and the remainder of the report of exclusion being read and debated,

It was, on a motion, made and seconded,

Voted, to consider the articles distinctly.

It was then moved, and seconded, E. that the President, Professors, and Tutors of Harvard College, be excluded from a seat in either House of Assembly. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the ordained or settled Ministers of the Gospel be excluded from a seat in either House of Assembly. Which, being put, after a very full debate, passed in the negative.

It was then moved, and seconded, that the vote for excluding

the Justices of the Inferior Court, from a seat in either House of Assembly, be reconsidered; which was superseded by a motion made, that the consideration of the said motion be referred to the time when the exclusion of militia officers, which stands referred, shall be considered. Which, being put, passed in the affirmative.

The order of the day being called for, it was moved, and seconded, to refer the consideration of the subject of proceeding to business, to to-morrow morning, 11 o'clock.

Which, being withdrawn, the question before the Convention to be debated "whether the Convention will now proceed in the business of framing a Constitution of Government, and continue in the same until it shall be completed," was taken up and debated, when a previous question was moved, and seconded, viz:

Whether the Frame of Government, which this Convention shall agree upon, can be sent out to our constituents for their revision, and an adjournment take place, in order to obtain and act upon their sense of it. Which, being put, passed in the affirmative, 46 out [of] 57.

The question, "whether the Convention will now proceed in the business of framing a Constitution of Government, and continue in the same until completed," was then taken up, and debated. Which being put, passed in the affirmative, 33 out of 58.

It was then moved, and seconded, that the Convention be now adjourned to to-morrow morning, 9 o'clock. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned.

THURSDAY MORNING, 9 o'clock, 10th Feb.

The order of the day being called for, it was moved, and seconded, that the Convention now proceed in the order of the report of the General Committee, in the further prosecution of the business of framing a Constitution of Government, and consider the several articles not as yet acted upon, as they occur in course in the same; and that such matters, as stand com-

mitted, and referred, be taken up in the order of the said report. Which, being put, passed in the affirmative.

The Rev. Mr. EELES was then introduced, and prayed with the Convention.

The Declaration of Rights was then resumed, and the several articles in the same having been acted upon, except the 12th and 16th, which were committed, and the Committees not ready to report, and the 31st. The last article, viz. the 31st, was read and debated.

It was then moved, and seconded, that the words "separate from and," be expunged, which was superseded by a motion made, and seconded, that the whole article be expunged, and that the following words be substituted, by which the article aforesaid, and the 2d paragraph in the preamble of the 2d chapter, formerly voted to be considered together, may be consolidated, and the sense of both expressed, viz :

"In the Government of this Commonwealth, the Legislative shall never exercise the Executive and Judicial powers, or either of them. The Executive shall never exercise the Legislative and Judicial powers or either of them. The Judicial shall never exercise the Legislative and Executive powers or either of them, to the end that it may be a government of laws and not of men." Which, being put, passed in the affirmative.

The Committee on the 12th and 16th article, not being ready to report, and two gentlemen, who were on that Committee absent, it was moved, and seconded, that the said Committee be now filled up. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz : Mr. LOWELL, and the Hon. Judge SULLIVAN, were appointed.

The preamble of the second chapter was then read, and debated.

It was moved, and seconded, that the words "agreeable to the aforegoing Declaration of Rights, and the subsequent Frame of Government," be added.

It was also moved, and seconded, that the word "being" be substituted in lieu of the words "to form themselves into," and the words "do hereby solemnly and mutually agree with each other to form themselves into," be transposed, and stand immediately after the word "State," and the words "a Government," be inserted before the words "by the name of."

Which several motions were superseded by a motion, made and seconded, for a previous question, viz. Whether any alteration shall be made in the article. Which, being put, passed in the negative.

The preamble being thus accepted, the 1st article, 1st section, 2d chapter, was then read.

The 1st paragraph having been passed upon before.

The 2d paragraph was considered and debated.

It was moved, and seconded, that the word "once," be expunged. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "every year," be transposed, and stand next after the word "assemble." Which, being put, passed in the affirmative.

The 3d paragraph was then read, whereupon it was moved, and seconded, that, previous to entering upon the consideration of the same, the Convention consider and act upon the 1st section, in the 3d chapter. Which, being put, passed in the affirmative.

The 1st article in the said section was then read. It was then, on a motion, made and seconded,

Voted, to consider the same in paragraphs or sentences.

The 1st, as far as "magistrate," being read and debated, the same was accepted by a very great majority.

The 2d, as far as "Massachusetts," was then read and debated, when it was moved, and seconded, that the word "President," be substituted in lieu of the word "Governor," which was negatived by the sentence being put, and accepted.

The 3d and last being read and debated, the same was put, and accepted.

It was then moved, and seconded, that the Convention be now adjourned. Which, being put, passed in the affirmative.

And the Convention was accordingly adjourned to 3 o'clock, P. M.

Three o'clock, P. M. Met according to adjournment.

The 2d article, 1st section, 3d chapter, was read, and *Voted*, to be taken up in paragraphs.

The 1st paragraph, as far as "annually," was read and accepted.

The 2d do. as far as " preceding," was read and accepted.

The 3d do. as far as " one thousand pounds," was read and accepted.

The 4th do. to the end, being read, it was moved, and seconded, that the same be expunged, which was superseded by a motion made, and seconded, that the words " declare himself to," be inserted between the words " shall," and " be." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words " Protestant and," be added after the word " Christian ;" upon which a previous question was moved, and seconded, whether the motion be now put. Which, being put, passed in the negative.

It was then moved, and seconded, whether the Convention will make any alteration in the clause just now passed upon and accepted, viz. " unless he shall declare himself to be of the Christian religion." Which, being put, passed in the negative, 40 out of 66.

The article was then put as amended, and accepted.

The 3d article was then read, and voted to be considered in paragraphs.

The 1st paragraph, as far as " such meetings," was read and accepted.

The 2d as far as the word " name," was read and accepted.

The 3d as far as " may," was read and accepted.

The 4th as far as " examined," was read and accepted; previous to which, it was on a motion, made and seconded,

Voted, That the Hon. Mr. Pickering be desired to bring in a clause in addition to this paragraph, making provision for due and proper returns to be made to the Sheriffs, of the votes of the several towns for Governor.

The 5th paragraph, as far as " published," read and accepted.

The 6th, to the end, was then read and accepted.

The 4th article was then read and debated, when, on a motion, made and seconded,

Voted, That this article be committed for revision, and that there be a chapter for the sole purpose of Oaths and Declarations.

It was then moved, and seconded, that a Committee be appointed to revise the aforementioned article, and to bring in an

article or chapter, setting forth the oaths and declarations to be taken by the several officers of Government, previous to their entering upon the execution of their offices. Which, being put, passed in the affirmative. A nomination being called for.

The Hon. Mr. PICKERING,
The Rev. Mr. CUMMINGS, and
The Rev. Mr. WEST, were appointed.

The 5th article was then read, and on a motion, made and seconded,

Voted, to pass over this article for the present.

The 6th article, was also read, and on a motion, made and seconded,

Voted, That this article be postponed for the present.

Upon the grounds and reasons of the two last preceding votes, it was moved, and seconded, that the Governor have a Council assigned him. Which, being put, passed in the affirmative.

It was then agreed, that the determination of the Convention upon the last subject, shall not be construed to preclude debate in future, on the question whether the Senate shall or shall not be of Council to the Governor.

The Convention then recurred to the consideration of the 5th article of the 3d chapter, when, after some debate, it was moved, and seconded, that this article be suspended until the mode of appointing Counsellors shall be determined upon. Which, being put, passed in the affirmative; whereupon, it was moved, and seconded, to consider and act upon the 2d article in the 3d section, 3d chapter. Which, being put, passed in the affirmative.

The said article was accordingly taken up and considered.

It was then, on a motion, made and seconded,

Voted, That the article be taken up in paragraphs.

The 1st paragraph, as far as "room," was then read and debated.

It was then moved, and seconded, that the Convention be now adjourned, which, being put, passed in the negative.

It was then moved, and seconded, that [the] Senate, as a Senate be of Council to the Governor. Which, being put, passed in the negative.

It was moved, and seconded, that the words, "out of the persons returned for Counsellors and Senators," be expunged; which, being largely debated, it was moved, and seconded, that the Convention be now adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to to-morrow morning, at nine o'clock.

FRIDAY MORNING, 11th Feb.

Met according to adjournment.

The 2d article, 3d section, 3d chapter, in the report of the General Committee, was then read.

The Convention then resumed the consideration of the motion, made and seconded, last evening, viz. that the words "out of the persons returned for Counsellors and Senators," be expunged. The question being varied by a subsequent motion, made and seconded, viz. whether the Council shall be chosen at large through the State, subject to the restriction of the 4th article.

The same was largely debated, when the same, being put, passed in the negative, 32 out of 70.

It was then moved, and seconded, that the following words be added to the article, viz. that, in case there shall not be found, upon the first choice, the whole number of nine persons who will accept a seat in the Council, the deficiency shall be made up by the electors aforesaid, from among the people at large, and the number of Senators left shall be the Senate for the year, subject to the restrictions of the 4th article. Which, being put, passed in the negative, 30 out of 66.

It was then moved, and seconded, that the Council be elected out of the Senate and House of Representatives, the vacancies thus occasioned to be filled up by precepts to the electors for a new choice. It was then moved, and seconded, that the article as it stands in the report be now put.

Moved, and seconded, that the present matter in debate, or

the further consideration of the 2d article subside, and that the Convention return to the consideration of the 1st section, in the 3d chapter, viz. the Governor.

Moved, and seconded, that the vote, passed this morning, that the Council be not chosen at large through the State, &c. be reconsidered. Which, being put, passed in the affirmative.

Moved, and seconded, that the article, as it now stands in the report, be now put; which motion being frustrated by the last vote, it was moved, and seconded, that a Committee be appointed to bring in an article, as a substitute for the article which has been under consideration. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of five.

A nomination being called for, the following gentlemen were appointed, viz. The President,
Judge SEARGENT,
Judge SULLIVAN,
Major WASHBURN, and
Mr. JACKSON.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to 3 o'clock, P. M.

Friday, P. M., three o'clock.

Met according to adjournment.

The Convention went into the consideration of the 1st article, 3d section.

The name of Lieutenant Governor occuring in the article, it was moved, and seconded, that there be a Lieutenant Governor in the administration of the Government of this Commonwealth. Which, being put, passed in the affirmative.

The 1st article aforesaid, was then read, and voted to be taken up in paragraphs.

The 1st paragraph, as far as "together," being read, it was moved, and seconded, that the Convention go into the consideration of the powers of the Governor. Which, being put, passed in the affirmative.

The 5th article, of the 1st section, 3d chapter, was according-

ly read, and debated, when, on a motion, made and seconded

Voted, That the word "five," be passed over for the present.

The article with the suspension of the word "five" aforesaid, was then put, and accepted.

The 6th article being then read, the same was

Voted, to be considered in paragraphs.

The 1st paragraph, as far as the words "recess of the said Court," was then read and debated. It was moved, and seconded, that the words "one hundred and fifty," be substituted in lieu of the word "ninety." Withdrawn.

The 1st paragraph was then put, and accepted.

The 2d as far as "May" read, and on a motion, made and seconded,

Voted, To be referred to a Committee for amendment.

A nomination being called for, the Hon. Mr. PAINE was appointed.

The 7th article was then read, when it was moved, and seconded, that [the] words "necessity, expediency or," be inserted between the words "the" and "time," which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "not exceeding one hundred and twenty days," be added to the article, after the word "require." Which, being put, passed in the negative.

It was then moved, that [the] words "not exceeding ninety days" be inserted immediately after the words "General Court." Which, being put, passed in the affirmative.

The article was then put with the amendments, and accepted.

The 8th article was then read, and

Voted, to be taken up in paragraphs.

The 1st paragraph, as far as "sea and land," was then read and accepted.

The 2d. do. as far as "Navy" was then read, and it was moved, and seconded, that the words "to be appointed by him," be expunged, which being withdrawn, it was moved, and seconded, that the words "by himself or such officer or officers as he shall order" be inserted in lieu of the words in the article. Withdrawn. It was moved, and seconded, that the word

'Chief," be expunged. Which, being put, passed in the affirmative.

It was moved and seconded, that the words " to be appointed by him," be expunged. Which being put, passed in the affirmative.

The paragraph was then put, and accepted.

The 3d paragraph, as far as " Commonwealth," was then read and accepted.

[The] 4th paragraph being read, on a motion, made and seconded,

Voted, That the words "and," before, and " if necessary," immediately after the word " destroy," be inserted in this paragraph.

It was moved, and seconded, that the word " expulse," in the 3d paragraph, be expunged, and the word " expel," be inserted. Which, being put, passed in the affirmative.

It was then moved, and seconded, to transpose the words, by placing the word " expel," after the word " resist." Which, being put, passed in the affirmative.

The 4th paragraph being then put, was accepted.

The 5th, as far as " require," was put, and accepted.

It was moved, and seconded, to reconsider the last paragraph, so far as to insert the word "or," between the words "war" and " invasion," and the words " and also in a time of," before the word " rebellion," and the words " declared by the Legislature to exist," immediately after the word " rebellion," which, being put, passed in the affirmative.

It was then moved, and seconded, that in the last clause or paragraph of this article, the words " in fine," be expunged; the words " these and," be inserted after the word " all," and the words " and not otherwise," at the close of the paragraph. Which, being put, passed in the affirmative.

The paragraph was put, and accepted.

The 6th paragraph was then read, (as far as defence,) and it was moved, and seconded, that the words " in time of war," be substituted in lieu of the words " from time to time." The paragraph was then put, and rejected.

The 7th paragraph was then put, and rejected.

The 8th do. was read, put, and rejected.

The 9th was then read, put, and accepted.

The proviso was then read, and

Voted, to be taken up in paragraphs.

The 1st paragraph, as far as Court, was then read; it was moved, and seconded, that Mr. LOWELL be a Committee, to bring in a paragraph, for the purpose of marching the troops of this State through the State of New Hampshire, upon emergencies. Which, being put, passed in the affirmative.

The 2d paragraph being read, and largely debated, the same was put, and rejected.

The 9th article was read, and accepted.

The 10th article being read, and voted to be considered in paragraphs, and the 1st paragraph read, it was moved, and seconded, that the Convention, in considering the appointment of Judicial Officers, by the Governor and Council, consider the officers distinctly. Which, being put, passed in the affirmative.

The words "Judicial Officers," being read, it was moved, and seconded, that in considering and determining the mode of appointing Judicial Officers, the several offices in that department be separately put.

The Judges of the Superior Court, being nominated, it was moved, and seconded, that they be nominated and appointed by the Governor, and by and with the advice and consent of Council. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Judges of the Inferior Court, be appointed by the Governor and Council.

It was then moved, and seconded, that the Justices of the Court of Common Pleas be appointed by the Governor and Council, out of a nomination list to be exhibited by the Judicial Officers of the County, viz: the Justices of the Common Pleas and of the Peace, subject to a negative of the Governor and Council.

It was then moved, and seconded, that the further consideration of this article be suspended, until the Convention shall have determined upon the mode of appointing military officers.

It was then moved, and seconded, that the Convention now adjourn. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned.

SATURDAY MORNING, 12th Feb.

Met according to adjournment.

The Convention then resumed the motion, which was under consideration last evening, viz: that the Justices of the Court of Common Pleas should be appointed by the Governor and Council, out of a nomination list, to be exhibited by the Judicial Officers of the County, subject to a negative of the Governor and Council; which, being largely debated, the question, that *the Justices of the Courts of Common Pleas* shall be nominated and appointed by the Governor, by and with the advice of Council, being put, passed in the affirmative, 36 in 58.

It was then moved, and seconded, that the *Judges of the Maritime Courts* be nominated and appointed in the same manner. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the *Judges of Probate* be nominated and appointed in the same manner. Which, being put, passed in the affirmative, 32 in 56.

It was then moved, and seconded, that the *Justices of the Peace* be nominated and appointed in the same manner. Which, being put, passed in the affirmative, 33 in 59.

Having gone through the appointment of the Judicial Officers, it was then moved, and seconded, that the *Attorney General* be nominated [and] appointed by the Governor, by and with the advice and consent of Council. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the *Solicitor General* be nominated and appointed in the same manner. Which, being put, passed in the affirmative.

It was then moved, and seconded, that all *Sheriffs* be nominated and appointed in the same manner. Which, being put, passed in the affirmative.

It was then moved, and seconded, that *Coroners* be nominated and appointed in the same manner. Which, being put, passed in the negative.

It was then moved, and seconded, that the vote for the Sheriffs being nominated and appointed by the Governor, with advice and consent of Council, be reconsidered. Which, being put, passed in the affirmative.

It was then moved, and seconded, that a Committee be appointed to bring in an article, which shall prescribe the mode in which, and terms on which Sheriffs and Coroners shall be appointed. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz:

The Hon. Judge SULLIVAN,
Mr. SPOONER, and
Judge SEWALL, were appointed.

It was then moved, and seconded, that the Convention be now adjourned to Monday morning, 10 o'clock. Which, being put, passed in the affirmative, and the Convention was adjourned accordingly.

MONDAY MORNING, 10 o'clock, 14 Feb.

Met according to adjournment.

The Committee on the 6th article, 1st section, and 3d chapter, reported the following amendment, viz: that the words "on the Wednesday next preceding the last Wednesday in May," be expunged, and the words following be introduced, viz: "and the said General Court shall be dissolved by the Governor, on the Wednesday next preceding the last Wednesday in May, if not before dissolved."

On a motion, made and seconded,

Voted, That the above article be recommitted for additions.

The Convention then resumed the consideration of 10th article, 1st section, 3d chapter.

It was, on a motion, made and seconded,

Voted, That the Registers of Probate be appointed by the Governor, with advice of Council.

It was then moved, and seconded, that the words "the Registers of the Maritime Courts," be expunged. Which, being put, passed in the affirmative.

The last clause, ascertaining the time within which nominations previous to appointments shall be made, was then read and debated. Which, being put, was accepted.

The 11th article being then read, it was moved, and seconded,

to refer the consideration of this article to to-morrow, at 11 o'clock. Which, being put, passed in the affirmative.

The 12th article was then read, and debated. Moved, and seconded, that the words "with advice and consent of Council," be expunged. Which, being put, passed in the affirmative, 27 out of 50.

It was then moved, and seconded, that the last preceding vote be reconsidered. Which, being put, passed in the negative.

The article, with the words aforesaid, being expunged, was then put, and accepted, 29 out of 54.

Major WASHBURN laid upon the table a report of the Committee, appointed to bring in amendments on the 2d article, 2d section, 2d chapter.

It was then moved, and seconded, that the Convention be adjourned. It was accordingly adjourned to 3 o'clock, P. M.

Monday P. M., Three o'clock, 15 Feb.*

Met according to adjournment.

The 13th article, 1st section, 3d chapter, being read, the same was taken up, and considered in paragraphs.

The 1st, as far as "forts and garrisons," was then read and accepted.

The 2d, as far as "harbors adjacent," was then read and accepted.

The 3d and last was read, and accepted.

The article was then put, and accepted.

The 14th article was then read, whereupon it was moved, and seconded, that the further consideration of this article be postponed until the Convention shall have acted upon the last paragraph of the 1st article, 1st section, in the 2d chapter, viz: the Governor's negative on laws. Which, being put, passed in the affirmative.

The 15th article was then read; the same was agreed to be considered in paragraphs.

The 1st paragraph, as far as "accordingly," was read and accepted.

* Should be 14th Feb.

The 2d do. as far as "Court," being read, it was moved, and seconded, that the words "Supreme Judicial Court," be substituted in lieu of the words "Superior Court."

The amendment being put, passed in the affirmative.

The paragraph being put, the same was accepted.

The 3d paragraph was then put, was accepted.

The article being then put, the same was accepted.

The 2d section being then taken up, and proposed to consideration, it was, previous to entering upon the same, moved and seconded, [that] an article be brought in, directing and empowering the Governor to lay before the two Houses of the Legislature, at the beginning of each Session of the General Court, and oftener, if necessary, by Speech or by Message, the state of the Commonwealth, and the business which may appear to him necessary to be acted upon by them; which being by consent suspended for the present, the section was entered upon, and the 1st article in the same was read, and agreed to be considered in paragraphs.

The 1st paragraph, as far as "His Honor," was read and accepted.

The 2d, as far as "Governor," was read and debated, when it was moved and seconded, that a Committee be appointed to bring in a general clause, which shall ascertain who are, or shall be deemed subjects of the Commonwealth of Massachusetts. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz:

The Hon. Judge SEARGENT,
Judge SULLIVAN, and
Mr. PAINE, were appointed.

The paragraph being then put, was accepted.

The 3d paragraph, as far as "the same manner," being read, it was moved, and seconded, that the words "and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor," be substituted in lieu of the words "he shall be chosen on the same day, in the same manner, and by the same persons;" the same being put, the said amendment was accepted.

The paragraph being put, was accepted.

The 4th and last paragraph being read, it was moved, and

seconded, that the words " of all the votes returned," be inserted in lieu of the words " of votes," and the words " shall have," instead of " has." Which, being put, passed in the affirmative.

The article being put, with the amendments, the same was accepted.

The 3d article, 1st section, 3d chapter, being referred to, it was on a motion, made and seconded,

Voted, to substitute the words " all the votes returned," in lieu of the words " votes thro' the Commonwealth."

The 2d article, 2d section, 3d chapter was then read, when it was moved, and seconded, that the words ex-officio, be expunged. Which, being put, passed in the affirmative.

The article was then put, and accepted.

The 3d article, being read, it was moved, and seconded, that the words " perform all the duties incumbent upon the Governor and shall," be inserted between the words " vacancy " and " have," and to substitute the word " he," in lieu of the words " the Governor." Which, being put, passed in the affirmative.

The article being put, with the amendment, was accepted.

The 2d article being resumed for reconsideration, it was moved, and seconded, that the same be committed for a new draught to the gentlemen, who were appointed a Committee to determine the qualifications of persons, who are or shall be declared subjects of this Commonwealth. Which, being put, passed in the affirmative.

It was then moved, and seconded, that it be recommended to the honorable the Judges of the Superior Court to adjourn the said Court, for such a term as may be consistent with their ideas of their duty, in order to their attendance on the business of this Convention. Which, being put, passed in the affirmative.

The 4th article was then read, and accepted.

The 5th was then read, and largely debated. It was moved, and seconded, that the article be committed for a new draught. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of three.

A nomination being called for,

The Hon. Mr. ADAMS, and
Mr. PAINE, and
Mr. SUMNER, were appointed.

The 1st article in the 3d section, was then read, and, on a motion, made and seconded,

Voted, to be postponed until the Committee on the next article shall report.

The 3d article was then put, and accepted.

The 4th being read, the same was, on a motion, made and seconded,

Voted, to be postponed until the Committee on the second article should report.

The 5th article was then read, and accepted.

The 6th article was then read, and accepted.

The 7th article was then read, and considered in paragraphs.

The 1st as far as "completed" read, and accepted.

The 2d as far as "elected," being read, the same with the succeeding paragraph, on a motion, made and seconded,

Voted, to be postponed until the Committee on the 2d and 4th articles, 2d section, 2d chapter, shall report.

The 8th article was then read.

The Committee on the subject of oaths and declarations made the following report,* which, on a motion, made and seconded, was considered in paragraphs.

The preamble being read and accepted, it was moved, and seconded, that the latter part of the same be recommitted for amendment. Which, being put, passed in the affirmative.

The Hon. Mr. PICKERING, Chairman of that Committee, being absent, it was moved and seconded, that one gentleman be added to the Committee. Which, being put, passed in the affirmative.

A nomination being called for, THEOPHILUS PARSONS, Esq. was appointed.

The oath of the Governor, Lieut. Governor, Senate, Council, and House of Representatives, was then read, and being considered in paragraphs, after sundry amendments distinctly put and accepted, was put, and with the Preamble, accepted as follows:

Any person chosen Governor, Lieut. Governor, Counsellor,

* Report not entered.

Senator or Representative, and accepting the trust, shall, before he proceeds to execute the duties of his place or office, make and subscribe the following declaration in the presence of the two Houses, viz :

I, A. B. do declare that I believe the Christian religion and have a firm persuasion of its truth ; and that I am seized and possessed, in my own right, of the property required by the Constitution, as one qualification for the office or place to which I am elected.

The following declaration with the preamble was also accepted, viz :

And every person chosen to, and accepting either of the places or offices aforesaid, as also any person appointed or commissioned to any Judicial, Executive, Military or other office, under the Government of this Commonwealth, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following oaths or affirmations, viz :

(*See the minutes of Tuesday Morning, 9th Feb.**)

The following oath of office was then read, and considered in paragraphs, viz :

I, A. B. do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as according [to] the best of my abilities and understanding, agreeably to the rules and regulations of the Constitution and the Laws of this Commonwealth ; and that I will not attempt or consent to a violation thereof. So help me God.

The first paragraph, being put, was accepted, as far as the words " of this Commonwealth."

The second, after some debate, was postponed by a motion, made and seconded, for adjournment. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to to-morrow morning, 9 o'clock.

* Should be 8th Feb.

TUESDAY MORNING, 15th.

Met according to adjournment.

The 2d paragraph in the oath of office aforesaid, being read, it was, on a motion made, [voted] to expunge the same.

The clause containing the oath, was then read, and accepted.

The words, "So help me God," were then put, and accepted.

The Proviso was then put, and accepted, viz.

Provided always, that when any person, chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmations in the foregoing forms, and subscribe the same, omitting in the first oath the words "I do swear," "and abjure," "or oath," "and abjuration;" and in the second oath, the words "swear and," and in each of them the words "So help me God;" subjoining, instead thereof, "and this I do under the pains and penalties of perjury."

The report was then delivered to the Committee, for amendment of the 2d paragraph of the preamble, and Mr. PARSONS added to the same.

The Rev. Mr. HOWARD was introduced, and prayed with the Convention.

The Committee on the 3d article, 1st section, 3d chapter, reported as follows, viz: That the words following be introduced immediately after the words "in May,"—"and the Sheriff shall transmit the same into the Secretary's office seventeen days at least before the said last Wednesday, or the Selectmen may cause returns of the same to be made into the said office seventeen days at least before the said day, and the Secretary shall," &c. Which, being put, was accepted.

The Committee on the 4th article, 2d section, 2d chapter, appointed to consider of a mode of adjourning the meetings for the choice of Senators, in order to their being duly notified of such vacancies as may happen in the same, and proceeding to fill up such vacancies, reported as follows, viz. that the words following be introduced immediately after the words "majority of votes" in the 6th line, viz. "And whereas, it may happen that the whole number of Senators may not be chosen by a majority of the electors voting on the aforesaid first Wednesday in April;

and in order that the right and power of election may be preserved as entire in the hands of the electors, as the nature of the case will admit, therefore it is further provided, that the several town meetings to be held in this State, on the first Monday in April annually, for the purpose of electing Senators, and after having duly proceeded on the business for which they are met, shall adjourn the said meeting to the day of and that it may seasonably be made known to the several districts and towns in the State, the number of vacancies, if any there be, and where they have so happened, the President of the Council, or the Governor, as the case may be, shall, 21 days at least before the 1st Wednesday of June aforesaid, make out a list of the number and names of the Senators chosen by a majority of votes in each district; and where it appears there is a vacancy or vacancies, send said list to the High Sheriff of the County, directing him without delay to furnish each Town Clerk in the district with a copy of the said list, to be by him laid before the town at the adjournment of the meetings called for the purpose of electing Senators." Which report, being put, passed in the negative. The article then remaining as before amended, a general question arose, upon the mode of filling up vacancies in the Senate, which being largely debated, several expedients were proposed by way of amendment, and also by way of substitution to the article, viz.

That the election of Senators be made at March meeting, and the returns of the votes be made by the Selectmen to the Sheriff, and by him to the Senate for the time being, through the Secretary's Office, and in case of vacancy, they to notify the Sheriff, and he the Selectmen, who shall convene the electors in order to the filling such vacancies, at the time prescribed for the first election by the report of the General Committee, and, in case there shall be no choice the second time, then the two Houses to proceed as in the article is provided.

That the mode of choice be the same as in the State of Connecticut.

That the Senate be chosen by delegates appointed by the people to meet in County Convention days after their appointment, and days before the last Wednesday in May.

That, in case of vacancy, the same to be filled up by precept,

in two months, out of the persons who were Senators the year before, and have the largest number of votes in the County, but the first year, in case of vacancy, from those who have the highest number of votes short of a majority.

All which proposals were set aside by a motion, made and seconded, that the article as it stands in the report be accepted. Which, being put, passed in the affirmative.

A motion was then made and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to 3 o'clock, P. M.

Tuesday Afternoon, 3 o'clock, 16 Feb.*

Met according to adjournment.

The order of the day being called for.

The 11th article, 1st section, 3d chapter, was read.

It was moved, and seconded, that the Militia Officers be elected by the People at large through the Commonwealth, being 21 years of age and upwards, and commissioned by the Governor during good behaviour.

It was moved, and seconded, that the General and Field Officers be appointed by the Governor, and that they exhibit a nomination list, from which the Governor shall appoint the Captains, and other Subaltern Officers.

That the soldiers in the train and alarm list, being 21 years of age and upwards, elect Subaltern Officers, the Subalterns elect the Field Officers, the Field Officers elect the Brigadiers, and the Brigadiers elect the Major Generals; the Selectmen or Sheriffs to preside at the meetings called for that purpose; said officers to be commissioned by the Governor, for a term not less than seven years, removeable, however, on complaint, by a Court Martial, or by the Governor and Council.

It was then moved, and seconded, that a Committee be appointed to take in consideration the Report of the General Committee (in this article) on the subject of appointing Militia Officers, and the subject at large, with such motions as have been made, and the arguments which have been adduced in support of them, and report such a mode as to them shall appear most conducive to the benefit of the Commonwealth, as a

* Should be 15th Feb.

substitute for the said article, or, in other terms, that a Committee be appointed to consider the article in debate, and the subject at large, and report; which was withdrawn, for the present, with liberty to renew it.

The motion being renewed by another gentleman, and somewhat varied, it was

Voted, That a Committee be appointed to consider and report the mode, in which the Militia Officers of this Commonwealth shall be appointed, and that the Committee consist of seven. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz.

The Hon. Judge SULLIVAN,
Col. WILLIAMS,
Mr. LOWELL,
The Hon. Judge CUSHING,
Col. DAWES,
Col. CUMMINGS, and
Major WASHBURN, were appointed.

It was then moved and seconded, that the vote passed yesterday, for expunging the words " with the advice and consent of Council," in the 12th article, 1st section, 3d chapter, [be reconsidered] and that the words be restored. Which, being put, passed in the affirmative, 48 in 73.

It was then moved, and seconded, that the word " no" be substituted in lieu of the word " all" in the 12th article aforesaid, and the word " but" added immediately after the words " disposed of." Which, being put, passed in the affirmative.

The Committee on the 1st article, 1st section, 2d chapter, (2d paragraph) and on the 2d paragraph, 6th article, 1st section, 3d chapter, reported, in the 1st article aforesaid, that immediately after the word " necessary," the following words be introduced, viz: " and shall be dissolved on the Wednesday next preceding the last Wednesday in May, annually, provided, they be not before that time dissolved by the Governor, at their request."

And in the 6th article aforesaid, the following words be subjoined at the close of the same, viz.

" And the said General Court shall be dissolved by the Governor, on the Wednesday next preceding the last Wednesday

in May, if not before dissolved." Which report being put, the same was accepted.

It was also moved, and seconded, that the following words be inserted between the words "disposed of" and the word "but," viz. "excepting such sums as may be appropriated for the redemption of bills of credit, or treasurer's notes or for payment of interest arising thereon," in the 12th article aforesaid. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "disposed of," be expunged. Which, being put, passed in the affirmative.

The article, with the amendments, was then put, and accepted.

It was then moved, and seconded, that the Convention be adjourned to to-morrow morning, 9 o'clock. Which, being put, passed in the affirmative. And the Convention was adjourned accordingly.

WEDNESDAY MORNING, 16th.

Met according to adjournment.

The Convention proceeded in the report, and the 2d article, 3d chapter, being read, and on a motion, made and seconded, the words "Governor and Council," were restored, and the article accepted.

The 2d paragraph, 1st article, 4th chapter, was then read as far as "behaviour." Which being debated, it was moved, and seconded, that a given period be established, for the expiration of the commissions of all the Judicial Officers of this Commonwealth, excepting those of the Judges of the Supreme Judicial Court.

It was moved, and seconded, that the words "excepting Justices of the Peace," be inserted after the word "sworn."

The Rev. Dr. COOPER was introduced, and prayed with the Convention.

It was also moved, and seconded, that the commission of the Committee for considering the business incident to the Court

of General Sessions of the Peace, and for annexing the same to the Court of Common Pleas, be enlarged, and that they consider of the expediency of new regulating the business of the Court of Common Pleas, and report. Which, being put, passed in the negative.

It was also moved, and seconded, that the said Committee be discharged. Which, being put, passed in the affirmative.

It was moved, and seconded, that the Governor's negative on laws, 3d paragraph, 1st section, 2d chapter, page 16, be taken up immediately after the business of Representation shall have been determined.

Voted, in the affirmative.

It was then moved, and seconded, that the Convention now proceed to the consideration of the subject of Representation, (page 24th.) Which, being put, passed in the affirmative.

The article under consideration not having been determined upon, a previous question was moved, and seconded, that this article be first considered and determined upon, or suspended. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Judges of the Inferior Court, hold their offices during good behaviour.

It was also moved, and seconded, that the Judges of the Inferior Court be appointed to hold their commissions for 40 years, removeable for misbehaviour.

A debate arising, respecting the Convention's acting upon the questions which have been moved and seconded, consistently with their former vote on [the] subject, a previous question was moved, and seconded, viz: whether the Convention *can* now go into the consideration of the questions relative to the tenure of the Justices of the Inferior Court. Which, being put, passed in the affirmative.

The first question then remaining in order was accordingly very fully debated, viz: That the Judges of the Inferior Court hold their Commissions during good behaviour.

It was then moved, and seconded, to adjourn. Which, being put, passed in the negative.

The question being then put, whether the Judges of the Inferior Court of Common Pleas shall hold their commissions during good behaviour. The same passed in the affirmative, 62 out of 86.

It was then moved, and seconded, that the Convention be adjourned to 3 o'clock this afternoon. Which, being put, passed in the affirmative.

The Convention was adjourned accordingly.

Wednesday P. M. Three o'clock.

Met according to adjournment.

The 2d paragraph in the 1st article, 4th chapter, being in course under consideration,

It was moved, and seconded, that the further consideration of the article be postponed until the subject of Representation shall have been acted upon. Which, being put, passed in the negative.

The paragraph being then open to debate, it was moved, and seconded, that [the] words "Justices of the Peace," be introduced immediately after the word "sworn."

It was then moved, and seconded, that the Judges of Probate shall hold their offices during good behaviour. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Judges of Maritime Courts shall hold their commissions during good behaviour. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "excepting such as are otherwise provided for in the Constitution," be inserted immediately after the word "behaviour."

It was moved, and seconded, that the words "all Judicial Officers," be expunged, and the several Judicial Officers, the tenure of whose commissions have been already determined upon, be particularly enumerated.

The 1st question being put, passed in the affirmative.

The paragraph was then put, and accepted.

The 3d paragraph, as far as "Legislature," being read, and largely debated, when the same was put, and accepted.

The 4th and last being read, on a motion, made and seconded, the same was

Voted, to be expunged.

The article was then put, with the amendments, and accepted.

The order of the day being called for, the Convention went

into the consideration of the subject of Representation, when the 1st article, 3d section, 2d chapter, was read and debated.

On a motion, made and seconded, the words "on the principle of," were voted to be inserted, before the word "equality" and accepted; when, on a motion, made and seconded, it was

Voted, That, in order to a more full and free discussion of the subject, the Convention go into a Committee of the whole House. Which, being put, passed in the affirmative.

A nomination being called for, The Hon. WILLIAM CUSHING, Esq. was appointed.*

Five o'clock.

The Convention resolved themselves into a Committee accordingly.

Half-past 8 *o'clock.*

The Committee aforesaid reported, that they had proceeded to the consideration of the subject assigned them, but, that not having time to complete it, they had agreed to desire leave to sit again for that purpose. Whereupon, on a motion, made and seconded, it was

Voted, That 10 o'clock to-morrow morning be assigned for the said Committee to sit and proceed in the consideration of the subject of Representation at large.

It was then moved, and seconded, that the Convention be adjourned to to-morrow morning, 9 o'clock.

The Convention was adjourned accordingly.

THURSDAY MORNING, 17th Feb.

Met according to adjournment.

The report of the Committee on Oaths, having yesterday been made and laid on the table, the same was now considered, when the following additions and amendment were read and accepted, viz: to expunge the words "in the presence of the Houses," at the close of the preamble, and subjoin the following, viz: "And the said declaration shall be made and subscribed by

* Que? Chairman of the Committee?

the Governor, Lieutenant Governor, and Counsellors, in the presence of the two Houses of the General Court, and by the Senators and Representatives, upon the first election under this Constitution, in the presence of the President and five of the last Council of the former Constitution, and for ever afterwards in the presence of the Governor and his Council of the preceding year," and to add the following paragraph after the proviso, viz: "And the said oaths or affirmations shall be taken and subscribed by the Governor, Lieutenant Governor, and Counsellors, before the President of the Senate, in the presence of the two Houses of Assembly, and by the Senators and Representatives, upon the first election under this Constitution, before the President and five of the last Council of the former Constitution; and, forever afterwards, before the Governor and his Council of the preceding year; and by all the other officers aforesaid, before such person or persons, in such manner as shall from time to time be prescribed by the Legislature."

The report was then read, when a motion was made and seconded, that the word "Protestant" be substituted in [the] first declaration. Whereupon, a debate arose upon the propriety of objecting to any thing in the report but the arrangement, which was superseded by the order of the day being called for, at 10 o'clock, when the Convention, on a motion, made and seconded, resolved themselves into a Committee of the whole House, for the further consideration of the subject of Representation at large.

The Rev. Mr. LATHROP was introduced, and prayed with the Convention.

Half-past one.

The Committee aforesaid then reported, that they had entered into the consideration of the subject assigned them, but that, for want of sufficient time, they had not been able to complete it, and desire leave to sit again for that purpose. Whereupon, it was moved, and seconded, that at 3 o'clock this afternoon, the Convention go into a Committee of the whole, for the further consideration of the subject of Representation, which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention ad-

journ to 3 o'clock this afternoon. Which, being put, passed in the affirmative.

The Convention was adjourned accordingly.

Three o'clock, P. M. Met according to adjournment.

The Convention went into a Committee of the whole House, for the further discussion of the subject of Representation.

Nine o'clock.

The Committee reported, that [they] had entered into the consideration of the subject assigned them, but that, not having time to complete it, they desire leave to sit again. Whereupon, moved, and seconded, that to-morrow morning, [at] 10 o'clock, the Convention resolve themselves into a Committee of the whole, for the further consideration of the subject of Representation. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be now adjourned.

The same, being put, passed in the affirmative.

The Convention was accordingly adjourned to to-morrow morning, 9 o'clock.

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9 o'clock, FRIDAY MORNING, *19th.

Met according to adjournment.

It was moved, and seconded, that the Convention go into the consideration of the expediency of vesting a power in the Senate to try impeachments, which may be made by other persons besides the House of Representatives.

The 8th article, 2d section, 2d chapter, was then read. Whereupon, a motion was made and seconded, that the words "or other persons," be inserted after the word "Representatives." Which, being put, passed in the affirmative.

The 4th article, 3d section, 2d chapter, in the Constitution,

* Should be 18th.

being read, it was moved, and seconded, that the word "male" be expunged; the same was accordingly debated.

The Rev. Mr. STILLMAN was then introduced, and prayed with the Convention.

It was then moved, and seconded, that the consideration of this article subside until the Committee for ascertaining who are subjects of the Commonwealth shall report. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words, "under the direction," be added in the 8th article, 3d chapter, immediately after the words "or other persons." Which, on a motion, made and seconded, for the order of the day, subsided, and the Convention

Voted, to resolve themselves into a Committee of the whole, for the further consideration of the subject of Representation, and went into a Committee accordingly.

Half-past one.

The Committee reported, that they had attended the service assigned them, and had entered into the consideration of the subject of Representation, but that not having time to complete it, they desired leave to sit again. Whereupon, on a motion, made and seconded,

Voted, That the Convention, at three o'clock this afternoon, will resolve themselves into a Committee of the whole, for the further consideration of the subject of Representation.

A motion was then made and seconded, that the Convention be now adjourned. Which, being put, passed in the affirmative.

And the Convention was adjourned accordingly.

Friday P. M., Three o'clock.

Met according to adjournment.

The order of the day being called, on a motion, made and seconded, the Convention

Voted, to resolve themselves into a Committee of the whole House, in order to the further discussion of the subject of Rep-

resentation, and the Convention went into a Committee of the whole, for that purpose.

Nine o'clock.

The Committee aforesaid reported, that they had agreed to accept the 1st paragraph of the 2d article, 3d section of the 2d chapter, of the Report of the General Committee, with certain additions and amendments, which the Chairman read in his place. Whereupon, moved, and seconded, that the same be accepted; when a previous question was moved, and seconded, that it be referred until the morning for consideration. Which, being put, passed in the negative.

The report of the Committee aforesaid, with the additions, [was] then put and accepted, 52 in 67, and is as follows, viz: The 1st paragraph, 2d article, 3d section, 2d chapter, as far as the words "additional Representative," and the words here subjoined, viz: "provided nevertheless, that each town, now incorporated, not having 150 rateable polls, may elect one Representative, but no place shall hereafter be incorporated with the privilege of electing a Representative, unless there are within the same one hundred and fifty rateable polls. And the House of Representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this Constitution."

It was, on a motion, made and seconded,

Voted, That a Committee be appointed to take into consideration and report a mode of paying the members of the House of Assembly, and that the Committee consist of three.

A nomination being called for,

The Rev. Mr. CHAPLIN,
The Rev. Mr. FISK, and
The Hon. Mr. ADAMS, were appointed.

A motion was then made, and seconded, that the Convention be adjourned to to-morrow morning, 9 o'clock. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned.

9 o'clock, Saturday Morning, 20th* Feb.

Met according to adjournment.

The Committee, appointed last evening, to consider and report a mode of paying the members of the General Court, reported that the following clause be inserted immediately after the words "agreeably to the Constitution," viz: And that the cost of Government may be upon like principles of equality, the House of Representatives shall be paid for travel and attendance out of the public Treasury, always provided, that if any member depart from the business of the General Court, without leave of the House, he shall not be entitled to such pay from the public Treasury.

On a motion, made and seconded,

Voted, That the said report be taken up and considered at 11 o'clock.

The Convention then entered upon the consideration of the subject of Representation, when the 3d paragraph of the 3d section, included in the 25th page, being read; a motion was then made, and seconded, that the same be expunged. Which, being put, passed in the affirmative.

The last paragraph, from the words "the freeholders," to the end, being read, it was moved, and seconded, that the same be expunged. Which, being put, passed in the affirmative.

It was then moved, and seconded, that a Committee be appointed to bring in a clause, making provision for the privilege of unincorporated towns or plantations sending Representatives to the General Assembly, which motion was afterwards altered, and being put in the following terms, viz: "that a Committee be appointed to consider of the practicability and expediency of the unincorporated towns and plantations, whose rateable polls are less than one hundred and fifty and are assessed for government taxes, being admitted to send Representatives to the General Assembly," passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of three.

* 19th?

A nomination being called for, the following gentlemen, viz:

Col. MITCHELL,
Mr. NICHOLS, and
Mr. HENSHAW, were appointed.

The order of the day was then taken up, and considered, viz: The Report of the Committee on the payment of the travel and attendance of the members of the General Court out of the public Treasury. Which, being debated, it was moved, and seconded, that the question be divided, and the travel of the members be first considered. Which, being put, passed in the affirmative. Whereupon, a motion was made and seconded, that the word "attendance," be for the present expunged. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "provided also, that he attend the business of the General Assembly one half the session at least," be added, which was superseded by a new draught being moved, and seconded, which, after the insertion of the words "by the Government," was accepted, viz: "The expenses of travelling to the General Assembly, and returning home, once in every session, and no more, shall be paid by the Government out of the public Treasury, to every member who shall attend as seasonably as he can in the judgment of the House, and does not depart without leave."

It was then moved, and seconded, that the words "and their attendance in the same," be restored. Which, being put, passed in the negative, 20 in 80.

It was moved, and seconded, that the same Committee to whom the subject of the appointment of Militia officers [was referred,] have authority to consider of the appointment of the Military officers also in the pay of the State. Which, being put, passed in the affirmative.

It was then moved, and seconded, that an addition of one be made to the Committee. Which, being put, passed in the affirmative.

A nomination being called for, the Hon. Gen. HANCOCK was added to the Committee.

It was then moved, and seconded, that 3 o'clock, Monday afternoon, be assigned for the consideration of the Governor's negative upon the laws. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be adjourned to Monday morning, 9 o'clock. Which, being put, passed in the affirmative.

And the Convention was adjourned accordingly.

MONDAY A. M. 9 o'clock, 21 Feb. 1780.

Met according to adjournment.

When the Rev. Mr. STILLMAN was introduced, and prayed with the Convention.

The 2d paragraph, 3d article, 2d section, 2d chapter, was read, and debated. When it was moved, and seconded, that the word "Protestant" be introduced into the article in addition to the word "Christian."

It was also moved, and seconded, that the words "he shall declare himself to be," precede the words "of the Christian religion."

It was also moved, and seconded, that the paragraph be expunged. Which, being put, passed in the negative.

It was then moved, and seconded, that the last vote be reconsidered. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the paragraph be expunged. Which, being put, passed in the affirmative, 50 in 75.

The Committee appointed to bring in a new draught of the second article, 2d section, 3d chapter, and also a clause declaring and determining who are or shall be subjects of this Commonwealth, made report of the same; which was read, and ordered to be laid on the table for consideration. A.

The Committee on the appointment of the Militia, and also on the subject of other military officers, made report; which was read, and ordered to lie on the table for consideration.

It was then moved, and seconded, that the Convention be adjourned.

It was moved, and seconded, that the words "as professed by Protestants" be introduced in the oath to be taken by the Gov-

ernor, &c. Which was superseded, by the question of adjournment being put, and passed in the affirmative.

The Convention was accordingly adjourned to 3 o'clock P. M.

Monday P. M. 3 o'clock.

Met according to adjournment.

The order of the day being called for, the last paragraph, 1st article, 1st section, 2d chapter was read, (page 16) and debated, viz. And the First Magistrate shall have a negative upon all the laws, that he may have power to preserve the Independence of the Executive and Judicial Departments. Which, being largely debated, it was moved, and seconded, that the words "with advice and consent of Council," be added immediately after the word "Magistrate." Which, being put, passed in the affirmative, 39 in 72.

The question then before the Convention for debate being as follows "That the Supreme Magistrate, with the advice and consent of the Council, shall have a negative upon all the laws, that he may have power to preserve the independence of the Executive and Judicial departments."

It was then moved, and seconded, that the last amendment be reconsidered. Withdrawn for the present.

It was moved, and seconded, that the Governor have a negative on all laws, acts and resolves of the General Court.

It was moved, and seconded, that the Governor, in the exercise of his negative on laws, he shall have the advice and consent of Council.

It was then moved, and seconded, that the amendment last voted be reconsidered. Which, being put, passed in the affirmative, by 40 in 71.

The paragraph first read, from the report of the General Committee, viz: "That the First Magistrate shall have a negative upon all laws that he may have power to preserve the independence of the Executive and Judicial Departments;" on a motion, made and seconded, was then put, and passed in the negative, 32 in 76.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to 9 o'clock, to-morrow morning.

TUESDAY MORNING, 23d* Feb.

Met according to adjournment.

The Rev. Mr. PARKER was introduced, and prayed with the Convention.

The Report of the Committee on the Militia and Military Officers was read, and considered in paragraphs. C.

The preamble as far as the words "in the following manner," was then read, and debated, and being put, was accepted.

When the Committee for making provision for the representation of unincorporated plantations made report; when the same was ordered to lay on the table. B.

The 1st paragraph, "as far as 21 years and upwards," was read, and debated, when a motion was made and seconded, that the preamble be reconsidered; the same being again read, the question was put, and passed in the affirmative, 45 in 66.

It was then moved, and seconded, that the preamble be expunged. Which, being put, passed in the affirmative.

The 1st paragraph was then read again and debated; when the same was accepted.

The 2d as far as the "respective regiments," was read; when the same was accepted.

The 3d paragraph as far as "Brigades," was read, and debated, when it was moved, and seconded, that Brigadiers General be appointed by the Governor and Council. Which, being put, passed in the negative.

The paragraph aforesaid was then put, and accepted.

It was then moved, and seconded, that a Committee be appointed to consider and report some mode to be established by the Constitution for revision of laws by the Governor and Council. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Committee consist of five. Which, being put, passed in the affirmative.

*22d ?

A nomination being called for, the following gentlemen, viz.

ELLIS GRAY, Esq.
Rev. Mr. CLARK,
THEO. PARSONS, Esq.
Gen. DANIELSON, and
Mr. SPOONER, were appointed.

The 4th paragraph was then read as far as " rank," and accepted.

Mr. PARSONS, desiring to be excused from serving on the above Committee. On a motion, made and seconded, it was

Voted, to excuse him, and appoint another gentleman in his room.

A nomination being called for, the Hon. Judge LINCOLN was appointed.

The 5th paragraph as far as " Governor," was read, and debated, when it was moved, and seconded, that the following clause be added, viz : " and also in what manner vacancies in the several brigades, regiments and companies shall be supplied." Which, being put, passed in the affirmative.

The vote being scrupled, and the paragraph with the amendment open to debate, it was moved, and seconded, that the following clause be substituted in lieu of the paragraph and amendment, viz :

That the Legislature, by standing laws, shall direct the time and manner of convening the electors, of collecting their votes, and of certifying the officers elected to the Governor. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Hon. Brigadier General DANIELSON be desired to consider, and report at the adjournment, the expediency of a mode in which the several limits of Brigades, Regiments and Companies shall be determined. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to 3 o'clock, P, M.

Tuesday P. M. 22d.

Met according to adjournment.

The 6th paragraph of the report under consideration in the morning was read as far as " by the Governor," and accepted·

The 7th as far as "by advice of Council" was read, and on debate, it was moved, and seconded, that the further consideration of this paragraph subside for the present. Which, being put, passed in the affirmative.

The Rev. Mr. LEWIS was introduced, and prayed with the Convention.

The 8th paragraph, as far as "Court Martial," [being read,] moved, and seconded, that the words "pursuant to the laws of the Commonwealth, for the time being," be added after the words Court Martial. Which, being put, passed in the affirmative.

The paragraph was then put, and accepted.

The 9th as far as "non-commissioned officers," being read, it was moved, and seconded, that the same be expunged. Which, being put, passed in the affirmative.

The 10th as far as, "Quarter Masters," being read, it was moved, and seconded, to insert the words "during pleasure." Which, being withdrawn, the paragraph was put, and accepted.

The 11th as far as "Aids," was then read, and accepted.

The 12th as far as "Adjutant General," was read, and accepted.

The 13th and last was read, when it was moved, and seconded, that the words "and all military officers of this Commonwealth other than militia officers" be added. Which, being put, passed in the negative.

The paragraph being put, was accepted.

The 7th paragraph was then resumed, and considered, when it was moved, and seconded, that the paragraph be committed; when it was moved, and seconded, that previous to the commitment of this paragraph, Brig. General DANIELSON be called upon to make report of the subject committed to him. Whereupon, the Hon. gentleman aforesaid reported as follows, viz:

That the divisions of the militia into Brigades, Regiments, and Companies, made according to the Militia Law now in force, shall be considered as the proper divisions of the Militia of this Commonwealth, unless the Legislature thereof, by some future law, shall alter the same.

On a motion, made and seconded,

Voted, That the words "until the same shall be altered in

pursuance of some future law," be substituted, in lieu of the words "unless" to the end.

Also, that the words "in pursuance of the militia law" [be substituted] in lieu of the words "according to the militia law."

It was then moved, and seconded, that the report be recommitted, in order to bring the same into an article and make provision for the choice and appointment of officers not of the militia. Which being put, passed in the affirmative.

The Hon. Judge SULLIVAN desiring to be excused;

On a motion, made and seconded, it was

Voted, to excuse that gentleman and appoint another in his room.

A nomination being called for, Mr. CABOT was appointed.

Mr. CABOT being on his desire excused, and a nomination being called for,

The Hon. General DANIELSON was appointed.

G. The Committee on the 10th article, 1st section, 3d chapter, reported verbally, that Sheriffs and Coroners be appointed by the Governor with advice and consent of Council.

A motion was then made and seconded, that the report of the Committee be accepted. Which, being put, passed in the affirmative.

It was then moved, and seconded, that a Committee be appointed to prepare an Address to the People upon the Frame of Government or Constitution, which the Convention shall agree upon. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of five.

A nomination being called for, the following gentlemen, viz:

The Hon. Judge SULLIVAN,
The Hon. Mr. ADAMS,
Mr. LOWELL,
Rev. Mr. WEST,
Mr. GRAY, were appointed.

The Report of the Committee on the 2d article, 2d section, 3d chapter, was taken up, and considered in paragraphs, as a substitute for said article,

The report as follows: "The Governor, and in his absence the Lieut. Governor, shall be President of the Council, and where the Council are equally divided, shall have the casting vote.

The Lieut. Governor shall always be ex-officio a member of the Council, except when the Chair of the Governor shall be vacant."

The 1st paragraph, as far as "vote," being read, and debated, a motion was made and seconded, that the following words be inserted, viz: "but shall have no vote in Council," in lieu of the words "and where," &c. to the end of the first paragraph. Which, being put, passed in the affirmative.

The paragraph was then read, with the amendments, and accepted.

The 2d paragraph being read, on a motion, made and seconded,

Voted, That the words "ex-officio," be expunged.

The paragraph, as amended, was then put, and accepted.

The whole report was then put, and accepted.

The Convention took up the report of the Committee appointed to consider of and report an article, declaring who are or may be subjects of the Commonwealth, when the same being read, it was moved, and seconded, that the present report lie on the table, for further consideration. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the consideration of the aforegoing report be resumed. When the same was resumed accordingly. When, after debate, it was moved, and seconded, that the report be recommitted. Which, being put, passed in the affirmative.

It was moved, and seconded, that an addition of two be made to the Committee for the Address to the People. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen were appointed, viz: Col. Thomson, and
Mr. Parsons.

The report of the Committee on Oaths and Affirmations was then taken in consideration, and debated, when it was moved, and seconded, that the said report be substituted in lieu of the

8th article, 3d section, 3d chapter. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the word "Protestant," be inserted immediately after the word "Christian," in the said article. Which, being put, passed in the negative, 26 out [of] 60.

A motion was then made, and seconded, that the Convention be adjourned to to-morrow morning. Which, being put, passed in the affirmative.

The Convention was accordingly [adjourned] to 9 o'clock, to-morrow morning

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WEDNESDAY MORNING, 23 Feb.

Met according to adjournment.

The Rev. Mr. ELIOT was introduced, and prayed with the Convention.

The Committee on revision of laws, made report as follows: that the following clause or paragraph be substituted in lieu of the 3d paragraph, 2d article, 1st section, 2d chapter. D. When it was moved, and seconded, that the report be amended by introducing the following words, viz: "That the Governor of this Commonwealth have a negative upon all the laws, except those which shall be made and passed for the military defence of the State, and that he have a revision on those, to be conducted by the rules hereafter prescribed." Which being largely debated, when, on a motion, made and seconded,

Voted, That the Convention be adjourned to this afternoon, 3 o'clock.

Three o'clock, P. M. Met according to adjournment.

The Convention resumed the consideration of the motion debated in the morning, when the question being put upon the amendment proposed, the same was determined in the negative, twenty in seventy-three—20 in 73.

The report upon the revision of the laws, without the amendment, was then read, and on a motion, made and seconded, it was

Voted, to take the same up in paragraphs.

The 1st paragraph, as far as "shall return," [being read,] it was moved, and seconded, the following words be substituted in lieu of the same, (after expunging the word "act," which was on a motion, made and seconded,

Voted, as also the insertion of the words "or resolves," "or of force," in different parts thereof,) viz:

"No bill or resolve of the Senate or House of Representatives, shall become law and have force, until it shall have been laid before the Governor for his revisal, and if he, upon such revision, shall have any objection to the passing of such bill or resolve, he shall return the same." Which, being put, passed in the affirmative, and was accordingly accepted.

The 2d, as far as resolve, was then read, and accepted, 26 in 65.*

The 3d, and last, being read, and debated, as far as "law." It was moved, and seconded, to expunge the words "two thirds." Which, being put, passed in the negative.

It was then moved, and seconded, to insert the words "being equal in numbers to those present at the passing thereof," immediately after the word "present."

This motion was superseded by a motion made, and seconded, for the paragraph. Which, being put, was accepted, 35 in 65.

The last paragraph was then read.

It was moved, and seconded, that the word "may," be substituted in lieu of the word "shall." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the same be expunged. Which, being put, passed in the affirmative, 25 in 49.

The whole report was then read; when it was moved, and seconded, that the whole report be expunged or rejected, which was superseded by a motion, made and seconded, that the report, as amended, be accepted. Which, being put, passed in the affirmative, by 44 in 68.

The report (B.) of the Committee, on the mode to be adopted for the representation of unincorporated plantations, as a

* Que?

part of the 2d article, 3d section, 2d chapter, was then taken up, and considered; when the same was put, and passed in the negative.

The report of the Committee, on the appointment of officers in the militia, was then taken up, and considered.

On a motion, made and seconded,

Voted, to transpose the words "officers elected," in the fifth paragraph.

It was also further reported on, verbally, that they are of opinion, that no provision is necessary to be made in the Constitution for the appointment of officers not of the militia.

This part of the report being put, was accepted.

The report being read, it was moved, and seconded, that the following words or clause, be substituted in lieu of the seventh paragraph: "And if the electors of Brigadiers, Field Officers, Captains or Subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the Governor, with advice of Council, shall appoint suitable persons to fill such offices." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the report, with the amendments, be accepted and substituted in lieu of the 11th article, 1st section, 3d chapter. Which, being put, passed in the affirmative.

It was then moved, and seconded, that a time be assigned for the further consideration of the expediency of excluding certain persons from a seat in either House of the Legislature. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That to-morrow afternoon be assigned for that business.

It was moved, and seconded, that a Committee be appointed to consider of the expediency of bringing into the Constitution a clause, making provision for a future revision of the same by the People of this Commonwealth. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Committee consist of three.

A nomination being called for,

Doctor JARVIS,

The Hon. Mr. ADAMS, and

The Hon. Mr. SPOONER, were appointed.

It was then moved, and seconded, that a Committee be appointed to consider and report a suitable time and place to which this Convention shall adjourn, when it shall adjourn for a recess, in order to obtaining and acting upon the sense of its constituents upon such a Constitution or Frame of Government as may be agreed upon, and sent out to them for their revision, and also to what extent and effect it may act upon the same when obtained. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of five.

A nomination being called for, the following gentlemen, viz.

The Hon. Mr. PAINE,

Brig. General DANIELSON,

Rev. Mr. CUMMINGS,

Rev. Mr. West,

The Hon. Judge SULLIVAN, were appointed.

It was then moved, and seconded, that the Convention be now adjourned [to] to-morrow morning, 9 o'clock. Which, being put, and passed in the affirmative.

The Convention was adjourned accordingly

THURSDAY MORNING, 24th Feb. 1780.

Met according to adjournment.

It was moved, and seconded, that the words "rateable polls," in all parts of the Constitution where the same shall occur, be expunged, and the words "male inhabitants being sixteen years of age and upwards paying taxes," be substituted in lieu thereof.

It was then moved, and seconded, that the motion be amended by inserting the words "twenty one," instead of "sixteen."

The Rev. Mr. EELES was introduced, and prayed with the Convention.

The above motion of amendment was then put, and passed in the negative. The first motion was then put, and passed in the negative.

It was moved, and seconded, that the last clause in the 3d ar-

ticle, 2d section, 2d chapter, be expunged. Which, being put, passed in the negative.

The 3d article, 2d section, 2d chapter, was then read, and accepted.

The 8th ditto was then read; it was moved, and seconded, that the same be accepted. Which, being debated, it was moved, and seconded, that the words "or other persons," be expunged. Which, being put, passed in the affirmative, 33 in 57.

The article was then put, as in the printed report, and accepted.

The 4th article, 3d section, 2d chapter, was read, when, on a motion, made and seconded, it was

Voted, That the words "or for the towns united as aforesaid," be expunged.

It was moved, and seconded, that the words "having a freehold estate within the same town, of the annual income of three pounds, or other estate, real or personal, or mixt, of the value of sixty pounds," be expunged. When the same was put, [and] passed in negative, 27 in 64.

It was moved, and seconded, that the word "male," be expunged. Which, being put, passed in the negative.

The article being then put, the same was accepted.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to 3 o'clock, P. M.

Three o'clock, P. M. Met according to adjournment.

The Secretary being absent, WILLIAM THOMSON, Esq. was appointed to officiate as Secretary pro tempore.

The order of the day being called for, on a motion, made and seconded,

Voted, That the same be postponed until 5 o'clock.

The 9th article, 3d section, 2d chapter, (page 27,) was read, when a motion was made, and seconded, to enlarge the number which shall constitute a quorum; which, after debate, was superseded by the article being put, and accepted, by 42 in 51.

The 5th article, 1st section, 3d chapter, (31 page) being then read, it was, on a motion, made and seconded,

Voted, to substitute the words "agreeably to the Constitution and the laws of the land," in lieu of the words "according to law."

The article, as amended, was then put, and accepted.

The 6th article in the same, as heretofore amended, with the restoration of the words "the Governor with advice and consent of Council," was then read, put, and accepted.

It was then moved, and seconded, that this article be committed, for the addition of a clause making provision for the adjournment of the General Assembly, in some cases not already provided for. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of three.

A nomination being called for, the following gentlemen, viz:

The Hon. Mr. Adams,
Rev. Mr. Thatcher, and
Increase Sumner, Esq. were appointed.

Five o'clock.

The order of the day was then called for, when the Convention resumed the consideration of the exclusion of certain officers of Government, who had been, and whom it may be deemed proper and necessary to be excluded from a seat in the two Houses of the Legislature.

The list of those who had been excluded by former votes of the Convention, being read, it was moved, and seconded, that the vote for excluding the Judges of the Inferior Court of Common Pleas from a seat in either House of the Legislature, be reconsidered. Which, being debated, the same was put, and passed in the negative, 29 in 59.

The vote being scrupled, the question was again put, and passed in the affirmative, 33 in 63.

It was then moved, and seconded, that the vote for excluding the Judges of the Maritime Courts be reconsidered.

A motion was then made, and seconded, that the last vote be made certain, which, being withdrawn, the question for reconsidering the vote for excluding the Judges of the Maritime Courts from a seat in either House of the Assembly, or Gene-

ral Court, was resumed, when the same, being put, passed in the affirmative, 33 in 61.

It was then moved, and seconded, that the vote for excluding Sheriffs, be reconsidered. Which, being put, passed in the negative.

It was then moved, and seconded, that the vote for excluding the Judges of Probate from seats in both Houses, be reconsidered, and that they be eligible to a seat in the Senate. Which, being put, passed in the negative.

A motion was then made, and seconded, for reconsidering the vote for excluding the Attorney General from a seat in either House of the Legislature. Which, being put, passed in the negative, 19 in 59.

A motion was then made, for reconsidering the vote for excluding the Solicitor General from the same; which subsided, not being seconded.

A motion was made, and seconded, for reconsidering the vote for excluding the Clerk of the House of Representatives from a seat in the same, as a member. Which, being put, passed in the negative.

A motion was then made, and seconded, that the Clerks of the Inferior Court of Common Pleas, and of the Court of General Sessions of the Peace be excluded from a seat in either House of the Legislature. Which, being put, passed in the negative, 20 in 47.

It was then moved, and seconded, that the last vote be reconsidered, with respect to the Clerk of the Inferior Court of Common Pleas only. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Clerks of the Inferior Courts of Common Pleas be excluded from a seat in either House of the Legislature. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Clerks of the Supreme Judicial Court be excluded from the same. Which, being put, passed in the affirmative.

It was moved, and seconded, that the vote for excluding Registers of Deeds from the same be reconsidered. Which, being put, passed in the negative.

A motion was then made, and seconded, that a Committee be appointed to bring in an article making provision for the issuing precept for a new choice of a member or members, when any person or persons, returned to serve in either House of the Legislature shall be appointed to and accept of places under the government, the holding of which is, or shall be, declared to be incompatible with the retaining a seat in the same.

On a motion, made and seconded,

Voted, That the Committee consist of one.

A nomination being called for,

The Hon. Judge SULLIVAN was appointed.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to nine o'clock to-morrow morning.

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9 o'clock, FRIDAY MORNING, Feb. 1780.

Met according to adjournment.

The 14th article, 1st section, 3d chapter, being read. On a motion, made and seconded, the further consideration of the same was assigned to 4 o'clock, P. M.

The Rev. Mr. CLARKE was then introduced, and prayed with the Convention.

I. It was then moved, and seconded, that a Committee be appointed to consider and bring in an article, which shall disqualify any person convicted of bribery or any other corruption, from holding any office under the government of this Commonwealth, or a seat in either House of the Legislature. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of three.

A nomination being called for, the following gentlemen were appointed, viz:

The Rev. Mr. CLARKE,
Col. DAWES, and
Col. WILLIAMS.

The 7th article, 3d section, 3d chapter, (40th page) being read, it was on a motion, made and seconded,

Voted, That the further consideration of the same be postponed.

It was then moved, and seconded, that there be a distinct Chapter in the Constitution, for the several Oaths and Tests which have been, or shall be prescribed to be taken and subscribed by the Officers of Government and the two Houses of Assembly, and also, for the list of persons excluded from a seat in either House, and such miscellaneous matters as the Convention shall direct to stand in the same.

The 3d article, in the 4th chapter, was then read, and accepted.

The 6th article in the same was then read, and on a motion, made and seconded,

Voted, That the words "shall be determined by the Senate," be expunged.

The article as amended, was then put, and accepted.

The 1st article, 5th chapter, was then read.

Moved, and seconded, to substitute the word "June," in lieu of the word "November," and "first," in lieu of "second."

It was then moved, and seconded, that the words "during the May Sessions," be inserted in lieu of the words "on the second Wednesday of November, if the General Court be then sitting, or on the second Wednesday of the Session next after."

It was moved, and seconded, that the words "on the first Wednesday in the May Session, or such time as the General Court shall then assign for that purpose," be inserted; which were respectively superseded, by a motion, made and seconded, that the words "sometime in the month of June," be inserted in lieu of the words aforesaid. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "to serve in Congress for one year, to commence on the first Monday in November then next ensuing," be inserted. Which, being put, passed in the affirmative.

It was then moved, and seconded, that a Committee be appointed to bring in an article which shall prescribe the qualifications necessary for Members of Congress. Which, being put, passed in the affirmative.

It was moved, and seconded, that the Committee consist of three.

A nomination being called for, the following gentlemen, viz :

Mr. GRAY,
Col. TYNG, and
General DANIELSON, were appointed.

The article aforesaid, as amended, was then put, and accepted.

It was then moved, and seconded, that the following clause be added before the last paragraph in the 2d article, 1st section, 2d chapter, viz :

" But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the said Bill or Resolve shall be entered upon the public records of the Commonwealth." Which, being put, passed in the affirmative.

The 3d article in the same was then read and debated. The further consideration of the article was postponed to 5 o'clock, this afternoon.

It was then moved, and seconded, that the Convention be adjourned to 3 o'clock, P. M. Which, being put, passed in the affirmative.

The Convention was adjourned accordingly.

FRIDAY P. M. 25 Feb. 1780.

Met according to adjournment.

The 6th article, 1st section, 3d chapter, [being taken up,] moved, and seconded, that the Committee upon this article, appointed yesterday, be authorized to consider and report what alterations may be necessary to be made in the same respecting the dissolution of the General Court. Which was superseded by a motion, made and seconded, that all the amendments, which have taken place respecting the dissolution of the General Court; [be reconsidered?] and that the following words be introduced in lieu of those of the printed copy and the said amendments, viz : " and to dissolve the same on the Tuesday next preceding the last Wednesday in May." Which, being put, passed in the affirmative.

The Committee on the disqualification of persons convicted

of bribery and corruption, reported an article for that purpose. Which, being debated, and the words "in due course of law," on a motion, made and seconded, inserted, their report was put, (K.) and accepted, viz: "No person shall ever be admitted to hold a seat in the Legislature, or any office of trust or importance in the government of this Commonwealth, who shall, in due course of law, have been convicted of bribery or corruption in obtaining an election or appointment." (T.)

The 2d article, 5th chapter, was then read, and on a motion, made and seconded, that the words "signed by the Governor," suspended by a former vote, be now restored. Which, being put, passed in the affirmative.

The article was then put, and accepted.

The order of the day being called for, on a motion, made and seconded,

[*Voted,*] That the Secretary be directed to signify to the Judges of the Superior Court, in writing, the request of this Convention, that they would give their attendance this evening, as matters of importance are to be acted upon, which, being done, the 3d article, 1st section, 6th chapter was read and accepted.

The 5th article, 5th chapter, was then read, and debated, when the same was ordered to lie for the present.

The Committee on the qualifications of Delegates from this State to Congress, reported as follows. (E.)

Which was considered in paragraphs.

The 1st paragraph as far as "the same," being read, the same was accepted, by 16 in 30.

The 2d as far as "Election," being read, it was, on a motion, made and seconded, agreed that this paragraph lie for the present, until the Committee on the Declaration of the Convention who shall be deemed subject, shall have reported.

The 3d being read, and debated, it was moved, and seconded, that the whole of the report be postponed for further consideration. Which, being put, passed in the affirmative.

The 5th and 7th articles, 5th chapter, being again read, it was moved, and seconded, that the further consideration of these articles be postponed for the present.

The 2d paragraph, 1st section, 2d chapter, was then read, and on a motion, made and seconded,

Voted, That the words "if not before that time dissolved by the Governor at their request," be expunged.

The order of the day was then taken up, and the 14th article, 1st section, 3d chapter, was read, and debated. It was again read, put, and passed in the negative, 14 in 36.

The 2d order of the day being called for, it was then moved, and seconded, that the further consideration of the same be postponed to to-morrow morning, 11 o'clock. Which, being put, passed in the affirmative.

It was then moved, and seconded, that two gentlemen be added to the Committee on 2d article, 3d section, 3d chapter, when

Mr. APPLETON, and

Mr. WEST, were added.

It was then moved, and seconded, that the Convention be adjourned to to-morrow morning. Which, being put, passed in the affirmative, and the Convention was adjourned accordingly.

SATURDAY MORNING, 26th Feb. 1780.

Met according to adjournment.

The 7th article, 5th chapter, (page 45) was read, and debated; when the Rev. Mr. WHITE was introduced, and prayed with the Convention.

It was then moved, and seconded, that the words "his Excellency the Governor," "or by his Honor the Lieutenant Governor, &c. or the Honorable the Council, &c. as the case may be," be expunged. Which, being put, passed in the affirmative.

(L.) It was moved, and seconded, that a Committee be appointed to consider of the expediency of an additional clause or clauses to the 1st article, 1st section, 2d chapter, making provision for a more speedy decision upon the bills and resolves of the Legislature, in cases where the Governor shall have no objections to them, than is provided for in the said article, and also of affixing the great seal of the Commonwealth to the Statutes of the same. Which, being put, passed in the affirmative.

On a motion, made and seconded, that the Committee consist of three.

A nomination being called for, the following gentlemen, viz:

Mr. GORHAM,

Mr. THOMSON, and

Mr. OTIS, were appointed.

The Committee on the 6th article, 1st section, 3d chapter, on adjournments, made report of a substitute for the said article. Which was, on a motion made, and seconded, considered in paragraphs.

The 1st, as far as "in May," was read, and accepted.

The 2d, as far as "recess," was read, and accepted.

The 3d, as far as "adjourned," was read, and rejected.

The 4th, as far as "require it," was read, and accepted.

The 5th and last, read, and accepted.

The report was then put, and accepted, as follows: That the following be substituted in lieu of the said article, viz: "The Governor, with advice of Council, shall have full power and authority, during the session of the General Court, to adjourn or prorogue the same to any time the two Houses shall desire, and to dissolve the same on the day next preceding the last Wednesday in May, and, in the recess of the said Court, to prorogue the same, from time to time, not exceeding ninety days in any one recess, and also to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require it.

And, in case of any infectious distemper prevailing in the place where the said Court is next at any time to convene by adjournment or prorogation, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the same.

And the said General Court shall be dissolved by the Governor, on the day next preceding the last Wednesday in May."

The Committee on vacating seats in the Assembly, on accepting appointments to civil offices, reported as follows:

"When any member of the House of Representatives shall be appointed to, and accept of, any civil office, his seat in the House of Representatives shall thereupon become vacant, and a precept shall be issued to his town for a new election.

Provided nevertheless, that if the office so accepted shall be

such, as is not incompatible with a seat in the House, and his town shall upon [a] new election,* he be entitled to his seat.' Which report, being put, passed in the negative.

Moved, and seconded, that the Committee on the 10th article be filled up. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen, viz:

Mr. Otis,
Mr. Barrell,
Judge Cushing,

were added to the Committee.

The order of the day, viz: 3d article, 2d section, 2d chapter, 4th paragraph, be [was] considered.

Moved, and seconded, that the same be expunged. Which, being put, passed in the affirmative.

It was moved, and seconded, that the words "dissolve and," be inserted in the amendment of the 2d paragraph, 1st article, 1st section, 2d chapter, between the words "shall" and "be." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be now adjourned to 10 o'clock, on Monday morning. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to that time.

Monday Morning, 28 Feb. 1780.

Met according to adjournment.

The 5th article, 5th chapter, read and debated; moved and seconded, to expunge the words "part of the British or English Statutes," and insert the word "Laws." Which, being put, passed in the affirmative; when the Rev. Dr. Cooper was introduced, and prayed with the Convention.

It was then moved, and seconded, to expunge all the words from "all" to "laws," and to insert the words "which" and "heretofore." Which, being put, passed in the affirmative.

The article was then put, and accepted.

The Committee on 2d article, 3d section, 3d chapter, on the

* Omission—que. reelect him?

choice of Counsellors, reported; when the report (F.) was read, and debated.

It was then moved, and seconded, that the same subside, and the printed report on the same subject be taken up, and considered. Which, being put, passed in the affirmative.

The 2d article, 3d section, 3d chapter, was then again read, and debated, when a motion was made, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was adjourned accordingly to 3 o'clock.

Three o'clock, P. M. Met according to adjournment.

The Convention resumed the consideration of the 2d article, 3d section, 3d chapter, which was again read.

It was moved, and seconded, that the words following be added to the article, viz: "And in case there shall not be found upon the first choice the whole number of nine persons, who will accept a seat in the Council, the deficiency shall be made up, by the electors aforesaid, from among the people at large, and the number of Senators left shall be the Senate for the year, subject to the restrictions of the 4th article in this section," be added immediately after the word "room." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "into the Council," be expunged, (in the next paragraph,) and the words "from the Senate," be inserted in lieu thereof. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "and in this manner the number of Senators shall be reduced to thirty-one," be expunged. Which, being put, passed in the affirmative.

The article was then put, as amended, and accepted.

The last paragraph, 3d article, in the Declaration of Rights, was then read, and the following transposition was moved and seconded, viz: the words "every denomination of Christians," in lieu of "Christians of every denomination." Which, being put, passed in the affirmative.

It was moved, and seconded, that the words "demeaning

themselves peaceably," be expunged. Which, being put, passed in the negative.

It was then moved, and seconded, that the last vote be reconsidered. Which, being put, passed in the negative.

It was then moved, and seconded, that the quorum of the Senate be now determined. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the quorum of the Senate for doing business be not less than sixteen. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the 4th article, 3d section, 3d chapter, be now considered.

The same being read, it was moved, and seconded, that the words "Senators," be inserted between the words "two" and "Counsellors," and the word "Counsellor," between the words "chosen" and "out." Which, being put, passed in the negative.

The article as in the printed copy being then put, the same was accepted.

The Committee on the 10th article, 3d section, 2d chapter, (page 28,) made report (G.) of an article, as a substitute for the same. Which, being read, was, on a motion,

Voted, to be considered in paragraphs.

The 1st as far as "members," was then read, and accepted.

The 2d as far as "Speaker," was read, and accepted.

The 3d as far as "House," ditto.

The 4th as far as "presence," being read, it was moved, and seconded, that the words "not a member," be inserted after the word "person." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the first paragraph be reconsidered. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "as pointed out in the Constitution," be added immediately after the word "members."

The paragraph was then put, as amended, and accepted.

The 5th paragraph, as far as "House," was then read, and accepted.

The 6th do. as far as "meet," was then read, and debated,

when it was moved, and seconded, that the words "who shall hold to bail on mesne process," instead of the word "arrest," before the words "any member," be inserted; when it was moved, and seconded, that the clause which relates to arrests be expunged. Which, being put, passed in the affirmative.

The 7th as far as "returning," put and accepted.

The 8th as far as "House," put and accepted.

The last as far as "session," being read, it was moved, and seconded, that the words "during the session," be expunged. Which, being put, passed in the affirmative.

The paragraph was then put, and accepted.

The report of the Committee was then put, and accepted, with the amendments, and is as follows, viz: (G.)

The House of Representatives shall be the judge of the return, election and qualification of its own members as pointed out in the Constitution; shall choose their own Speaker, appoint their own officers, and settle the rules and orders of proceeding in their own House; they shall have authority to punish by imprisonment every person not a member, who shall be guilty of disrespect to the House by any disorderly or contemptuous behaviour in its presence, or who in the town, where the General Court is sitting and during the time of its sitting, shall threaten harm to the body or estate of any of its members for any thing said or done in the House, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person ordered to attend the House, in his way in going or returning, or who shall rescue any person arrested by the order of the House.

And no member of the House of Representatives shall be arrested or held to bail on mesne process, during his going unto, returning from, or his attending the General Assembly.

The same Committee brought in the following report, of addition to be made to the 11th article in the same section, in the printed report, viz:

And the Senate and House of Representatives may try and determine all cases where their rights and privileges are concerned, and which by the Constitution they have authority to try and determine, by Committees of their own members, or in such other way as they may respectively think best.

Which being read, debated, and put, was accepted.

The Committee on the 6th article, 5th chapter, on the *Habeas Corpus* act, then reported, (H.) that the words "except &c," to the close, be expunged, and a substitution of the words following in lieu thereof, viz: except in time of war, invasion, or rebellion, or where the Legislature have previously declared that there is immediate danger of a war, invasion, or rebellion, and only as to such persons who shall be charged with being in the interest of the enemy or in a conspiracy against the State; and, in such cases, the suspension shall never operate with respect to any person for a longer time than the space of forty days, nor with respect to any one, who has been liberated on such writ, until twenty days after such liberation. Which, being put, passed in the negative, 14 in 35.

It was moved, and seconded, that the report of the General Committee, not already passed, be now considered. Which, being put, passed in the affirmative.

The last paragraph being then read, it was moved and seconded, that the words "not exceeding six months" be added to the same. Which, being put, passed in the negative, 13 in 36.

It was then moved, and seconded, that the words "short and" be expunged, and the words "not exceeding twelve months" be added. Which, being put, the votes on each side were even, 18 in 36, when the President gave the casting vote in favor of the amendment.

It was then moved, and seconded, that the following words be added to the article in lieu of the last words in the report as now amended, not exceeding twelve months, viz:

"And then by act so conceived that no person shall be liable to be held in prison longer than for the term of twelve months, without being legally charged with some crime; nor shall any person liberated by such writ be, within forty days after his liberation, again committed, but on some certain and legal charge expressed in the warrant of commitment."

It was moved, and seconded, that the words "for legal cause" be substituted in the proposed amendment in lieu of the words "on some certain and legal charge." Which, being put, passed in the affirmative, 17 in 33.

It was then moved, and seconded, that the words, "in time of war, rebellion, or invasion, declared or apprehended by the

Legislature," be inserted in some proper place in the proposed amendment.

Which, being put, the votes were even, 18 in 36, and the President gave his casting vote in the negative.

The paragraph, with the preceding amendments, was then put, and accepted.

It was then moved, and seconded, that the paragraph as amended and accepted, be recommitted. Which, being put, passed in the negative, 14 in 33.

A further amendment, viz: "committed by virtue of the act, and," was then moved, and seconded. Which, being put, passed in the negative, 12 in 33.

It was then moved, and seconded, that the last clause, as last amended, be reconsidered. Which, being put, passed in the affirmative.

On a motion, made and seconded, the article in the printed report as first amended, viz: with the addition of the words "not exceeding twelve months" and expunging the words "short and" was then put, and accepted, by 20 in 36.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to to-morrow morning, 9 o'clock.

TUESDAY MORNING, 9 o'clock.

Met according to adjournment.

The Rev. Mr. HOWARD was introduced, and prayed with the Convention.

The Committee on the 12th article in the Declaration of Rights made report, that the 12th and 14th articles be incorporated. (I) Which, being debated, on a motion, made and seconded,

Voted, That the report be recommitted for amendment.

It was moved, and seconded, that Mr. LOWELL be added to the Committee. Which, being put, passed in the affirmative.

It was moved, and seconded, that Judge CUSHING be added to the Committee. Which, being put, passed in the affirmative.

The Committee on additions to the article of revision of laws reported, that the following words be inserted immediately after the word revisal, viz: No bill or resolve of the Senate or House of Representatives shall become a law and have force as such, until it shall have been laid before the Governor for his revisal, and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same; but if he have in lieu of the words " and if he upon such revision shall have." Which, being put, passed in the affirmative.

The Committee on the 12th article made report of the following addition to the report brought in this morning, viz: " Provided." It was then moved, and seconded, that the word " And " be substituted in lieu of the word " Provided." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words " excepting for the government of the army and navy, " be added. Which, being put, passed in the affirmative.

The report of the Committee was then read as amended, and On motion, made and seconded, it was

Voted, To accept the same, and that it stand in the Declaration of Rights in lieu of the 12th and 14th articles in the report of the General Committee, as follows, viz. " No subject shall be held to answer for any crime or offence until the same is fully and plainly, substantially and formally, described to him, or be compelled to accuse or furnish evidence against himself, and every subject shall have a right to produce all proofs that may be favourable to him, to meet the witnesses against him face to face, and to be fully heard in his defence by himself or his Council, at his election; and no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate, but by the judgment of his peers, or the law of the land. And the Legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by Jury."

The Committee on the Address to the People made Report of the same. (L) Which, being read, it was moved, and seconded, the [that] 4 o'clock this afternoon be assigned to consider the same.

The Committee on the adjournment of the Convention and acting upon the sense of their constituents, &c. reported. (M)

The Committee on the incompatibility of Offices also made report. (N)

The Committtee on the 16th article reported that the following words, viz. "except in such cases as have heretofore been otherways used and practised," be added immediately after the word "persons." Which, being put, passed in the affirmative.

The article was then put, and accepted, with the amendment.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, and passed in the affirmative.

The Convention was adjourned to 3 o'clock, P. M.

Tuesday P. M., Three o'clock.

Met according to adjournment.

The report of the Committee on adjournment of the Convention, for the purpose of receiving and acting upon the sense of their constituents, was then taken up and considered; when the same was debated, and afterwards acted upon in paragraphs.

The 1st as far as "adjourned to " [was read] when it was moved, and seconded, to fill up the blank with the words "the first Wednesday in September," which was largely debated, when the same was put, and passed in the negative.

It was then moved, and seconded, that the 2d Wednesday in August be inserted in the blank. Which, being put, passed in the negative.

It was then moved, and seconded, that the 2d Wednesday in July be inserted. Which, being put, passed in the negative.

It was then moved, and seconded, that the 4th Wednesday [in] June be inserted. Which, being put, passed in the [negative.]

It was then moved, and seconded, that the blank, be filled up with "the first Wednesday in June." Which, being put, passed in the affirmative.

The 2d as far as to "meet at," was read, when it was moved,

and seconded, that the blank be filled up by the word "Boston." Which, being put, passed in the affirmative.

The 3d as far as "Copies,"

Voted, to be postponed for the present.

The 4th as far as "State," [being read?]

Voted, That the paragraph be committed.

The 5th as far as "State," being read, it was moved and seconded, that [the] words "and Committees of each plantation" be inserted. Which, being put, passed in the affirmative.

The 6th as far as "consideration," being read, it was on a motion, made and seconded,

Voted, That the words "inhabitants of plantations" be inserted in lieu "of their towns."

The 7th as far as "the same" being read, and so on to the word "Convention," it was then moved, and seconded, that after the words "of the Convention" the following be inserted, viz: "on the first Wednesday in June, or, if may be, by the last Wednesday in May, in order to his laying the same before a Committee, to be appointed for the purpose of examining and arranging them, to be laid before the Convention as [at] the adjournment. Which, being put, passed in the affirmative.

The 8th as far as "meetings" being read, on a motion, made and seconded,

Voted, That the word "plantation" be inserted before the word "meetings."

The 9th paragraph, as far as "Constitution" read, and accepted.

The 10th as far as "State" was read, and accepted.

The report, as amended, was then put, and accepted.

It being voted above, that the 4th paragraph be committed in order to the filling up the blanks in the same,

It was moved and seconded, that a Committee be appointed to consider of the expediency of a proposal to be made to the People at large, of perfecting and giving final effect to the Constitution, after receiving and acting upon their objections: and that the Committee consist of five.

A nomination being called for, the gentlemen named in the margin were appointed.

Mr. Barrett, *
Mr. Adams,
Mr. Lowell,
Mr. Chaplin,
Mr. Kimball.

It was then, on a motion made and seconded,

Voted, [that] a Committee be appointed to consider of the number of books to be printed, and the most expeditious method of printing and distributing them among the People through the states; and that the Committee consist of three. A nomination being called for, the gentlemen named in the margin were appointed.

Mr. Barrett, *
Mr. Gray,
Mr. Thomson.

The order of the day being called for, the Address to the People, was resumed and considered in paragraphs.

The 1st paragraph, as far as consideration, was read, and accepted.

The 2d as far as Commonwealth, do.

It was then moved, and seconded, that the words "if any shall appear to you to be necessary" [be inserted] after the [word] amendments," and the word "may" in lieu of "shall." Which, being separately put, were accepted.

The paragraph was then put, and accepted.

The 3d paragraph, as far as "government," was then read, and accepted.

The 4th do. as far as "government," was then read, and accepted.

The 5th do. ———— "decision," being read, it was, on a motion made, and seconded,

Voted, That the word "Constitution," near the close of it, be substituted in lieu of "form of government."

It being proposed to expunge certain words, relative to the inimical practices of those who would endeavor to prevent a Constitution's taking place, the same was debated, when it was moved, and seconded, that the Address be read in paragraphs, distinctly, and pauses made for observation, but no questions be

* In the margin of the Journal.

put upon the same; and that, after going through the whole, that the Address be recommitted for such amendments, as the Committee shall find to be agreeable to the Convention, on general observations made thereon. Which passed *sub silentio.*

The Address was read, and considered accordingly.

Report of the Committee on the adjournment of the Convention for a recess, in order to act upon the sense of the People of the State, upon their General Report on the Frame of Government, which they may agree upon and submit to their revision, as accepted.

"*Resolved,* That this Convention, when it shall adjourn, (for a recess,) be adjourned to the first Wednesday in June next, then to meet at Boston, and that eighteen hundred copies of this Form of Government be printed, and (except such as shall be ordered to each member of the Convention,) be sent to the Selectmen of each town, and the Committees of each plantation in this State, and that they be, under the direction of a Committee to be appointed for the purpose, requested, as soon as may be, after receiving the same, to lay them before the inhabitants of their respective towns and plantations; and, if the major part of the inhabitants of their towns and plantations disapprove of any particular part of the same, that they be desired to state their objections distinctly, and the reasons for the same;—and the Selectmen or Committees aforesaid are desired to transmit the same to the Secretary of the Convention, on the first Wednesday in June, or, if may be, by the last Wednesday in May, in order to his laying the same before a Committee, to be appointed for the purpose of examining and arranging them, for the revision and consideration of the Convention, at the adjournment, with the number of the voters in the said towns and plantations' meetings, who voted on each side of every question, in order that the said Convention, at the adjournment, may collect the general sense of their constituents, on the several parts of the proposed Constitution; and, if there doth not appear to be two thirds of their constituents in favour thereof, that the Convention may alter it in such a manner as may be agreeable to the sentiments of two thirds of the voters of the State." (P. Q.)

It was moved, and seconded, that the Address be recommitted. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to to-morrow morning, 9 o'clock.

WEDNESDAY MORNING, 1st March.

Met according to adjournment.

The Rev. Mr. STILLMAN was introduced, and prayed with the Convention.

The Committee on the future revision of the Constitution by the People, when established, made report, which being read, [is] as follows:

"In order to recur the more effectually to the principles of the Constitution, and to correct those violations which, by any means may be made in it, as well as to form such alterations as from experience shall be found necessary, it is recommended to the inhabitants of this State, in twenty years from the time when the present Form of Government shall be established, to appoint a Convention of Delegates for that purpose, to be chosen by their respective towns in the same manner and proportion with their Representatives in the General Assembly, always remembering that the Delegates so to be chosen, as they derive their authority from the People, are to be accountable to them, and to them only, for the faithful discharge of their duty."

When it was agreed to take the report into consideration in paragraphs.

The 1st as far as "necessary," being read; when, after the word "made" being inserted, the same was accepted.

The 2d being read, and an amendment having been proposed and acceded to, of the substitution of a paragraph, in lieu of the second and last, the same was read and considered, viz:

That the General Court, which shall be in the year
recommend to the inhabitants of the several towns through the State, to meet together, to consider of such

revision, in order to amendments. And, if it shall appear that a majority of the whole number of the inhabitants shall be in favor of such a revision, they recommend to the inhabitants aforesaid to appoint delegates, &c," to the end.

When it was moved, and seconded, to fill up the blank with the words "in the year 1800." Which, being put, passed in the negative.

It was then moved, and seconded, that the blank be filled up with the words "in the year seventeen hundred and ninety five." Which, being put, passed in the affirmative.

The 2d clause, as far as "amendments," was read, and accepted.

It was moved, and seconded, that the following words, viz: "that they issue precepts, &c." be substituted in lieu of the words "that they recommend." Which, being put, was passed in the affirmative.

It was then moved, and seconded, that the words "the said Delegates in the same manner and proportion as their Representatives in General Assembly," be inserted. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the words "always remembering, &c." to the end of the first report, be expunged. Which, being put, passed in the affirmative.

It was then moved, and seconded, to reconsider the last vote. Which, being put, passed in the negative.

It was then moved, and seconded, that the words "two thirds," be substituted in lieu of the words "the majority," in the last clause. Which, being put, passed in the negative.

A previous motion was made, and seconded, that the words "inhabitants of such town and plantation," be substituted in lieu of "the inhabitants." Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be adjourned. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned to 3 o'clock, P. M.

Wednesday P. M. 3 o'clock. Met according to adjournment.

The Committee appointed to consider of the number of

books of the Constitution, necessary to be printed, and the proportion and manner in which the same shall be distributed, reported, that fifteen hundred be printed, and that they be distributed by three expresses, employed at the public expense; whereupon, on a motion made, and seconded,

Voted, That eighteen hundred books be printed, and dispersed in the manner prescribed in the report, under the direction of a Committee to be appointed for that purpose.

On a motion made, and seconded,

Voted, That each Delegate to this Convention be furnished, by the Committee to be appointed, with one book.

On a motion made, and seconded,

Voted, That a Committee of three persons be appointed and empowered to distribute the books to the several towns and plantations, in such numbers to each as they may think proper.

A nomination being called for, the following persons were appointed, viz: Mr. BARRETT,
Mr. WENDELL, and
Mr. GRAY.

On a motion made, and seconded,

Voted, That the Committee last appointed be empowered to employ three expresses, for distributing the books aforesaid through the State.

The report of incompatibility, was then read, and considered, (N) when [the] same, after expunging and restoring the clause respecting the Justices of the Superior Court being Justices through the State, was accepted.

It was then on motion made, and seconded,

Voted, That the Committee on publishing and dispersing the books of the Constitution be augmented, and that the President and Mr. ADAMS, be added, also that [the] Committee supervise the same, and make such alterations in clerkship and arrangement as to them shall appear necessary.

On a motion made, and seconded,

Voted, That two gentlemen be added to the Committee on exclusion and incompatibility.

A nomination being called for,
Mr. PAINE, and
Gen. DANIELSON, were appointed.

The Committee on completing the Constitution in Convention, reported, (P) which being largely debated, the same was recommitted, and the Rev. Mr. CLARKE added to the Committee.

The Convention then resumed the Address, which being read, it was considered in two parts.

The exordium being read, the same was accepted.

The remainder of the Address being read, the same was amended in sundry places, as appears on the original report, and accepted.

The whole Address was then put, and accepted.

It was then moved, and seconded, that the same number of copies of the Address be printed, as of the Form of Government, and accompany the same, and be signed by the President. Which, being put, passed in the affirmative.

It was then moved, and seconded, that that part of the report of the Committee on the future revision of the Committee [Constitution,] viz: "If it shall appear that a majority of the whole numbers of the inhabitants shall be in favor of such revision," be reconsidered. Which, being put, passed in the affirmative.

It was moved, and seconded, that the following words be inserted in lieu thereof, viz: "That if two-thirds of the male inhabitants, being 21 years of age, and upwards, so convened in such towns and plantations, shall be in favor of such revision."

Which motion was superseded [by] a motion made, and seconded, that the whole report be reconsidered and committed. Which, being put, passed in the affirmative.

On a motion made, and seconded,

Voted, That the Committee consist of three.

A nomination being called for, the following gentlemen were appointed, viz: Doct. JARVIS,
Rev. Mr. HAVEN, and
The Hon. Judge SEWALL.

On a motion made, and seconded,

Voted, to adjourn; and the Convention was accordingly adjourned to to-morrow morning, 9 o'clock.

(N) Report on incompatibility of Offices, accepted March 1.

No Governor, Lieutenant Governor, or Judge of the Supreme Judicial Court, shall hold any other office or place under the authority of this Commonwealth, except such as by this Constitution they are admitted to hold, saving that the Judges of the said Court may hold the office of Justices of the Peace through the State, nor shall they hold any other office or place, or receive any pension or salary from any other State, or Government, or Power, whatever.

No person shall be capable of holding or exercising, at the same time, more than one of the following offices, within this State, viz: Judge of Probate, Sheriff, Register of Probate, or Register of Deeds, and never more than any two offices, which are to be held by appointment of the Governor, or the Governor and Council, or the Senate or House of Representatives, or by the election of the People of the State at large, or of the People of any County, Military offices and the office of Justices of the Peace excepted, shall be held by one person.

THURSDAY MORNING, 2 March.

Met according to adjournment.

The Committee on the perfecting the Constitution made report. Which, was considered in paragraphs, and rejected.

Report on perfecting the Constitution, in addition to the last resolves (P Q.) Rejected.

"And our Constituents are requested to instruct their delegates what further measures they would have them take, in order that a Constitution of Government may be perfected and ratified.

And the good people of this State are desired to attend as universally as may be, to this interesting subject, that there may be as full a return as possible, at the time above mentioned.

The mode of obtaining which is submitted to the good sense of the inhabitants of the several towns and plantations through the State."

It was then moved, and seconded, that it is the sense of this Convention, that a proposal be made to our constituents, that they instruct their present delegates, or such other as they may appoint, to perfect and ratify the Constitution sent out to them after receiving and acting upon their sense of it, as expressed in the returns which shall be made thereof.

It was also moved, and seconded, that in case it should appear that two thirds of our constituents should agree to the Constitution sent out to them, it shall be returned to this Convention, who shall be empowered to ratify and confirm the same.

It was then moved, and seconded, that it be recommended to our constituents, that in case it shall appear by the returns that two thirds should not be united in their approbation of the Constitution, when laid before them, to consider whether it would not be expedient to empower their present delegates, or such other as they may think fit to appoint, to adjust the opinions and objections, which shall appear on the several returns, so as to render it conformable to the general sense of the People; and then to return it to the General Assembly ratified, in order that they may appoint a time when the same shall be in force as the Constitution of the Commonwealth.

It was also moved, and seconded, that, in case it should appear that two thirds of our constituents should not agree to accept the Constitution, the Convention consider the objections, and return the same to them for their further order on the same; which motions were severally superseded, when, on a motion made and seconded, it was

Voted, That it be recommended to the People of the State to institute a Convention, to confirm and ratify the Constitution which this Convention may agree upon, and that a Committee be appointed to bring in a resolve, in addition to the resolves which were yesterday accepted, and that the Committee consist of three. A nomination being called for, the following gentlemen, viz:

Judge SULLIVAN,
Mr. LOWELL, and
Mr. PAINE, were appointed.

The Committee appointed to reconsider the report on the fu-

ture revision of the Constitution which may be agreed upon, made report (S) of a new draught, which, being read, it was moved, and seconded, that the words "seventeen hundred and ninety," be substituted in lieu "of seventeen hundred and ninety five." Which, being put, passed in [the] negative.

It was then, on a motion, made and seconded,

Voted, To adjourn, and the Convention accordingly adjourned, to 3 o'clock, P. M.

Thursday P. M. 2d March. Met according to adjournment.

It was moved, and seconded, that the vote empowering a Committee to supervise the report of the form of Constitution as amended, and to make such alterations, in clerkship and arrangment, as they may think necessary, and to send the same out as the doings of the Convention, be reconsidered so far as that an adjournment may take place, at which the said Committee shall report the said alterations and arrangement. Which, being put, passed in the negative.

The Secretary was then desired to lay before the Convention such votes and amendments as have taken place in the report of the General Committee, and such miscellaneous articles as may have been agreed upon by votes of the Convention.

On a motion, made and seconded, the Committee on the 5th article, 2d section, 3d chapter, was dismissed.

The report of the Committee on the future revision of the Constitution was resumed and considered (S.) Which, being then put, was accepted.

The Committee on "Subjects," reported that they think it advisable to leave the matter to the future Legislature.

The Committee on marching the Militia reported in addition to the 8th article, 1st section, 3d chapter (T.) Which, being read, was accepted.

The Committee for completing the resolves relative to completing the Constitution by the Convention made report. (P Q) Which was accepted.

The Committee on incompatibility further report that the following, (viz. W) be inserted in the miscellaneous chapter, and the 2d article, 5th chapter, expunged.

The report of the Committee on the qualifications of members of Congress was considered, and, on a motion, made and seconded, the same was rejected.

Moved, and seconded, that the words "saving that the Justices of the said Court may hold the office of Justice of the Peace through the State," be expunged from the report of incompatibility accepted yesterday afternoon. Which, being put, passed in the negative.

It was moved, and seconded, that the President be directed to sign the Constitution and Address, when arranged by the Committee in order to publication. Which, being put, the same passed in the affirmative.

It was moved, and seconded, that this form of Government shall be enrolled on parchment, and deposited in the Secretary's Office, and be a part of the laws of the land; and printed copies thereof be prefixed to the book containing the laws of the Commonwealth, in all future editions of the said laws (Y.) Which, being put, passed in the affirmative.

It was then moved, and seconded, that the report of the Committee on exclusion and incompatibility be accepted, and stand in the miscellaneous chapter. Which, being put, the same was accepted.

It was on a motion, made and seconded,

Voted, That a Committee be appointed to return the thanks of the Convention to gentlemen of [the] Clergy, who have officiated as Chaplains during the session.

On a motion, made and seconded,

Voted, That this service be performed by the same Committee who invited them, with the addition of Mr. Appleton.

It was then, on a motion, made and seconded,

Voted, [That] the Committee for arranging the form of the Constitution for the press, &c. be a Committee to provide a place at which the Convention shall meet in Boston, at the adjournment.

It was then moved and seconded, that the Convention be now adjourned for a recess. Which, being put, passed in the affirmative.

And the Convention was accordingly adjourned to the first Wednesday in June, then to meet at Boston, at 10 o'clock, A. M.

(P Q) Report of the Committee on finishing the Constitution that [the] following be added to the Resolves, accepted 29 Feb.

Resolved, That it be recommended to the inhabitants of the several towns and plantations in this State, to empower their Delegates, at the next session of the Convention, to agree upon a time when this Form of Government shall take place, without returning the same again to the People. *Provided*, that two thirds of the male inhabitants of the State, of twenty one years of age and upwards, voting in town meeting, shall agree to the same; the Convention shall conform it to the general sense of the people as aforesaid.

Resolved, That the towns and plantations of this State have a right to choose other Delegates, instead of the present members, to meet in this Convention on the first Wednesday in June next, if they see fit.

(P.) The Committee appointed to consider of the expediency of a proposal to be made to our constituents of some mode for completing the Constitution in this Convention, reported the following, in lieu of the last paragraph of the report accepted 29th ult.

(*Superseded by the above.*)

And inasmuch as the Convention wish nothing more ardently, than that this important work may be speedily completed, to the satisfaction of the good people of this State, and doubt not their concurrence in the same wish; and as the People, with whom alone is the power of confirming it, for want of opportunity of conversing with each other through this extensive State, cannot act uniformly, unless some plan is offered to their consideration, it is further resolved, that it be proposed to our constituents, that, if two thirds of the People acting upon this form of Government, should instruct their delegates, upon the adjournment of the Convention, to declare all such articles as two thirds of the people should approve to be established, and to amend such, if any, as shall not be so approved, so as to conform the same, as near as may be, to the sentiments of the people appearing upon the returns, and to confirm the same; that in such case, this form of Government may be confirmed accordingly by the Convention, and a time fixed when the same shall

be established and be in force as the Constitution of the Commonwealth of Massachusetts.

And the good People of this State are earnestly desired to attend as universally as may be to this interesting subject, that there may be as full a return of their sentiments as possible at the time above appointed.

(S.) Report on the future revision of the Constitution, accepted 2d March.

"In order, the more effectually to adhere to the principles of the Constitution, and to correct those violations, which, by any means, may be made therein, as well as to form such alterations as, from experience, shall be found necessary, the General Court, which shall be in the year of our Lord 1795, shall issue precepts to the Selectmen of the several Towns, and to the Assessors of the unincorporated Plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the Constitution in order to amendments.

And, if it shall appear by the returns made, that two thirds of the qualified voters throughout the State, that shall assemble and vote in consequence of the said precepts, are in favour of such revision or amendment, the General Court shall issue precepts, or direct them to be issued from the Secretary's office, to the several towns, to elect Delegates to meet in Convention for the purpose aforesaid.

The said Delegates to be chosen in the same manner and proportion as their Representatives in the second Branch of the Legislature are, by this Constitution, to be chosen."

(W) Report of the Committee on exclusion and incompatibility, accepted March 1st.

No person holding the office of

Justice of the Supreme Judicial Court, of
Secretary,
Attorney General,
Solicitor General,
Treasurer,
Commissary General,
President, Professor, or Instructor of Harvard College,

Judge of Probate,
Sheriff,
Clerk of the House of Representatives,
Clerk of the Superior Court, and of the
Inferior Court of Common Pleas,
Register of Probate,
Register of Deeds, or
Officers of the Customs, including in this description Naval Officers, shall at the same time have [a] seat in the Senate or the House of Representatives; but their being chosen, and accepting the same, shall operate as a resignation of their seat in the Senate or the House of Representatives; and the place so vacated shall be filled up.

And the same rule shall take place in case any Justice of the said Supreme Judicial Court, or Judge of Probate, shall accept a seat in Council, or any Counsellor shall accept of either of those offices.

(C.) Report of the Committee on the 11th article, 3d chapter, 1st section, on the choice of Militia Officers and their appointment by the Governor.

"The Captains and Subalterns of the Militia shall be elected by the Train-band and Alarm Lists of their respective Companies, of twenty one years of age and upwards. The Field Officers shall be elected by the written votes of the Captains and Subalterns of their respective Regiments. The Brigadiers shall be elected in like manner by the Field Officers of their respective Brigades, and such Officers, when so elected, shall be commissioned by the Governor, who shall determine their rank.

The Legislature shall, by standing laws, direct the time and manner of convening the electors, of collecting votes, and of certifying to the Governor the Officers elected.

The Major Generals shall be appointed by the Senate and House of Representatives, each having a negative on the other, and be commissioned by the Governor.

And if the electors of Brigadiers, Field Officers, Captains and Subalterns shall neglect or refuse to make such elections, after being duly notified according to the laws for the time being,

then the Governor, with advice of Council, shall appoint suitable persons to fill such offices.

And no Officer, duly commissioned to command in the militia, shall be removed from his office but by the address of both Houses to the Governor, or by fair trial in Court Martial, pursuant to the laws of the Commonwealth for the time being.

The Commanding Officers of Regiments shall appoint their Adjutants and Quarter Masters, the Brigadiers their Brigade Majors; and the Major Generals their Aids; and the Governor shall appoint the Adjutant General.

The Governor, with advice of Council, shall appoint all Officers of the Continental Army, whom, by the Confederation of the United States, it is provided that this Commonwealth shall appoint, and also all Officers of forts and garrisons.

The Divisions of the Militia into Brigades, Regiments and Companies, made in pursuance of the militia laws now in force, shall be considered as the proper Divisions of the Militia of this Commonwealth, until the same shall be altered in pursuance of some future law." Accepted.

(E) Report on the qualifications of members of Congress. Rejected.

"No person shall be chosen a Delegate to Congress from this Commonwealth, unless, at the time of his election, he shall be seized in his own right of a freehold, of the value of three hundred pounds at the least, within the same, and unless he is a native of this or some other of the thirteen United States; and a subject of this and a resident within the same at least seven years next preceding his election.

And whenever a member of the Senate or House of Representatives shall be chosen a Delegate to Congress, his seat shall be vacated, and a precept issued to the district or town, which he may represent, as the case may be, to choose a new member."

(F) Report of the Committee on the choice of Counsellors. Rejected.

"Nine Counsellors shall be chosen, on the first meeting of the General Court, by the joint ballot of the Senators and Representatives assembled in one room; who shall hold their places during good behaviour, but subject to impeachment before the Senate for misconduct or mal-administration in the Offices.

And in case of a vacancy happening in the Council by death, or otherwise, such vacancy shall be filled in like manner, by the Senators and Representatives.

If a Senator be chosen into the Council and accept the trust, his seat shall be vacated in the Senate, and his place supplied in the same manner as if there had been a non-election by the People. And if a Representative be chosen and accept the trust, his seat shall be vacated, and a writ shall, by the Speaker, be issued to the town he represents to supply his place.

(H) The Report of the Committee on the suspension of the *Habeas Corpus* act in certain cases and for a limited time. Rejected.

(6th article, 5th chapter, 45th page of the printed report) viz:

"That the words following "Legislature," in the said article be expunged, and the following be substituted in lieu thereof, viz:

"Except in a time of war, invasion or rebellion, or when the Legislature have previously declared that there is immediate danger of a war, invasion or rebellion, and then only as to such persons who shall be charged with being in the interest of the enemy, or in a conspiracy against the State; and in such cases the suspension shall never operate with respect to any person for a longer time than forty days, nor with respect to any one, who has been liberated on such writ, until twenty days at the least, after such liberation, and then by act so conceived that no person shall be liable to be held in prison longer than for the space of twelve months, without being legally charged with some crime, nor shall any person liberated by such writ be, within forty days after his liberation, again committed, but on some certain and legal charge expressed in the warrant of commitment."

In Convention.—March 2, 1780.

Resolved, That this Convention be adjourned to the first Wednesday in June next, to meet at Boston; and that eighteen hundred copies of the Form of Government, which shall be agreed upon, be printed; and including such as shall be ordered to each Member of the Convention, be sent to the Select-

men of each Town, and the Committees of each Plantation, under the direction of a Committee to be appointed for the purpose : And that they be requested, as soon as may be, to lay them before the Inhabitants of their respective Towns and Plantations. And if the major part of the Inhabitants of the said Towns and Plantations disapprove of any particular part of the same, that they be desired to state their objections distinctly, and the reasons therefor: And the Selectmen and Committees aforesaid are desired to transmit the same to the Secretary of the Convention, on the first Wednesday in June, or if may be, on the last Wednesday in May, in order to his laying the same before a Committee, to be appointed for the purpose of examining and arranging them for the revision and consideration of the Convention at the adjournment; with the number of voters in the said town and plantation meetings, on each side of every question; in order that the said Convention, at the adjournment, may collect the general sense of their constituents on the several parts of the proposed Constitution: And if there doth not appear to be two thirds of their constituents in favour thereof, that the Convention may alter it in such a manner as that it may be agreeable to the sentiments of two thirds of the voters throughout the State.

Resolved, That it be recommended to the Inhabitants of the several towns and plantations in this State, to empower their Delegates, at the next Session of this Convention, to agree upon a time when this Form of Government shall take place, without returning the same again to the people: *Provided*, That two thirds of the male Inhabitants of the age of twenty one years and upwards, voting in the several town and plantation meetings, shall agree to the same, or the Convention shall conform it to the sentiments of two thirds of the People as aforesaid.

Resolved, That the Towns and Plantations thro' this State have a right to choose other Delegates, instead of the present members, to meet in Convention on the first Wednesday in June next, if they see fit.

A true Copy, Attest.

SAMUEL BARRETT, *Secretary.*

[*The Address of the Convention to the People is placed in the Appendix to this Volume*]

BOSTON, 7th JUNE, 1780.

Meeting House in Brattle Street.

Met according to adjournment.

Returns from several Towns and Plantations, of their proceedings upon the Form of Government, submitted to their revision, being produced, on a motion, made and seconded, it was

Voted, That one or more Committees be appointed to revise and arrange the same, and such others as may be brought in and report the state of the same at the adjournment.

On a motion, made and seconded,

Voted, [That] one Committee to consit of five be appointed for this purpose.

It was then moved, and seconded, that the last vote be so far reconsidered, as that the number be augmented to nine. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen were appointed, viz: The Hon. Mr. ADAMS,
The Hon. Mr. PAINE,
Major OSGOOD.

Which gentlemen were at their request severally excused, when, on a motion, made and seconded, it was

Voted, to reconsider the last vote, so far as to reduce the number to five.

A nomination being called for, the following gentlemen were appointed, viz: Mr. STORER,
Mr. GRAY,
Mr. BARRETT,
Mr. COTTON, (who being at his request excused, the Convention proceeded to appoint
Mr. APPLETON,) and
Mr. SHUTE, a Committee for the above purpose.

In the course of the forenoon, the following gentlemen produced certificates of their appointment as Delegates in this Convention, and the same being read and approved, they took their seats accordingly, viz:

For the town of

Harvard,	Worcester County,	Col. Josiah Whitney,
		Mr. Joseph Stone,
Mendon,	do.	Mr. Edward Rawson,
Dracut,	Middlesex,	Rev. Mr. Nathan Davis,
Lanesboro',	Berkshire,	Capt. Asa Barnes,
Norton,	Bristol,	Capt. Isaac Hodges,
Rehoboth,	do.	Mr. Ephraim Starkweather,
Falmouth,	Cumberland,	Brig. Gen. J. Preble,
Granby,	Hampshire,	Capt. Phinehas Smith,
Hadley,	do.	Mr. Charles Phelps.

A motion was made, and seconded, that previous to the sitting of the Committee, the several returns received be read in Convention. Which, being put, passed in the negative.

It was then moved, and seconded, that an addition of seven be made to the Committee aforesaid. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen were appointed, viz: Gen. Godfrey,
Mr. Abbot,
Mr. Phelps.

The last gentleman being excused, the Convention proceeded in the nomination, and appointed
The Hon. Judge Sullivan,
Mr. Hammond,
Mr. Hitchcock,
Major Washburn, who being excused, the Convention appointed
Mr. Biscoe, and
Mr. Davis.

It was moved, and seconded, that the above Committee be directed to sit immediately, and the Convention be adjourned to to-morrow afternoon, 3 o'clock. Which, being put, passed in the affirmative.

And the Convention was adjourned accordingly.

Thursday P. M., Three o'clock.

Met according to adjournment.

The Committee appointed to revise and arrange the returns made to the Convention, from the several Towns and Plantations through the State, of their proceedings on the Form of Government, submitted to their revision, beg leave to report that one hundred and forty seven towns have made returns.

That they have examined seventy six of them ; that in those returns they find the number of persons present and voting to be 5776 ;—That the number in favour [of] the Constitution without amendments, and of such Constitution as two thirds of the persons voting thro' the State shall agree to, or the Convention shall form agreeably to the sentiments of two thirds, even though the amendments proposed should not be obtained, they find to be 4564, but that several towns have returned their acceptance of the Constitution with certain amendments, and have not determined whether they would accept it in case their proposed amendments do not obtain, upon which they desire the opinion of the Convention, whether they may take the sense of those towns from their delegates ;—and finally, that they have not as yet entered into the merits of the objections made, or amendments proposed ; deeming it more eligible first to go through the returns, in the manner aforesaid. Which report, being read, the last paragraph but one was largely debated.

During the debates upon which, the following gentlemen having produced credentials of their appointment as Delegates in this Convention, the same were read, and approved, and they took their seats accordingly, viz : For the Town of

Littleton, in	Middlesex County,	John Reed, Esq.
Marlborough,	do.	Mr. Brigham Winslow,
Braintree,	Suffolk,	Brig. Gen. Palmer,
Swansey,	Bristol,	Capt. John Richmond,
Scituate,	Plymouth,	Isl. Vinal, Esq.
		Col. John Jacobs,
		Mr. Enoch Collimer,
Monson,	Hampshire,	Mr. Abel Goodale,
New Braintree,	Worcester,	Maj. Joseph Bowman,

Haverhill,	Essex,	Brig. Gen. Brickett,
Stockbridge,	Berkshire,	John Bacon, and
		Jehiel Woodbridge, Esqrs.

It was then moved, and seconded, that an addition of twelve be made to the Committee for revising and arranging the returns from the several towns, in order to their taking the numbers voting for and against every article in the Declaration of Rights and Frame of Government, and making as early a report as may be. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen were added to the said Committee, viz.

Mr. ALLEN,
Mr. BARTLET,
Gen. PALMER,
Mr. SUMNER,
Mr. THATCHER,
Mr. CABOT,
Mr. SMALL,
Col. CUMMINGS,
Mr. ROBBINS,
Mr. JEWETT,
Mr. REED, and
Mr. CUMMINGS.

The Hon. Judge SULLIVAN being at his request excused, the Convention appointed Col. DEAN in his stead.

It was then moved, and seconded, that the Committee take the sense of the several towns in such instances as the same shall be obscurely or dubiously expressed in their returns, from their Delegates. Which, being put, passed in the negative.

It was then moved, and seconded, that the Committee be enjoined to sit immediately, and that the Convention adjourn for that purpose to to-morrow afternoon, 3 o'clock. Which, being put, passed in the affirmative, and the Convention was accordingly adjourned to that time.

FRIDAY P. M. 3 o'clock.

Met according to adjournment. When the following gentlemen produced testimonials of their appointment to sit in Convention, viz: For the town of

Hancock,	Berkshire County,	Mr. Samuel Hand,
Royalston,	Worcester,	John Fry, Esq.
Shelburne,	Hampshire,	Capt. John Long.

Col CUMMINGS desiring leave to absent himself from the Committee, and General GODFREY the same favour, on a motion, made and seconded,

Voted, That they be excused.

A nomination being called for,

Mr. MARCH, and

Doct. SAWYER, were appointed.

The Committee appointed to examine the returns from the several towns, respecting the Constitution, reported, "That on account of the different manner in which the said returns are made, they find themselves obliged to adopt an entire new plan.

That they have divided into separate Committees, and have been diligently employed in the business, and expect to be able to report by Monday, at 3 o'clock.

It was then moved, and seconded, that the Convention be now adjourned to 3 o'clock, Monday next.

It was moved, and seconded, that the returns of the several towns be now read in full Convention.

It was moved, and seconded, that the Convention be adjourned to Tuesday morning, at 10 o'clock.

The 1st question being put, passed in the affirmative.

And the Convention was adjourned accordingly, to 3 o'clock, on Monday next.

MONDAY P. M. 3 o'clock.

Met according to adjournment.

The Committee appointed to examine the returns from the several towns, on the Constitution, reported.

REPORT.

The Committee appointed to examine the returns of the several towns, respecting the Form of Government, report, That 174 towns have made returns; that in order to collect the true sense of the People, the Committee have been obliged to make a column for every article, and another for the amendment proposed, with the numbers for and against the same; that they have not been able to complete any one County, because there are towns in each that have as yet not made returns; but in order that the Convention may be made acquainted with the manner in which they have proceeded, they exhibit the following specimen, viz :

COUNTIES.	In favor if amended. Pro.	Con.	Do. if the amendments do not obtain.		Third Article Declara'n Rights.		Do. if amended.		2d chapter, 1st sec. 7th art.		Ditto amended.	
Suffolk and Lincoln,	549	7	969	145	1004	369	602	140	628	3	1297	6
Essex and Cumberland, [?]	49		1408	8	922	287	448	29	1632	92		
Plymouth, York, and Cumberland,			529		997	261	254		1016	14	498	

COUNTIES.	16th Article Declara'n Rights.		Do. amended.		2d chapter, 4th section, article 1.		Do. amended.		Chap. 6, article 7.		Do. amended.	
Suffolk, &c.	962		1064		823	5	1083		579	5	1309	
Essex, &c.	1771	69	40		1627	75	48		1035	55	585	9
Plymouth, &c.	1258		199		1352	11	109		852	12	642	

&c.

The Committee report the numbers on the preceding articles only, because, so far as they have hitherto examined them, there appears to be a very great majority in favor of all the rest, as they stand in the printed form.

After which, Major BENJAMIN ELY produced a certificate, as evidence of his appointment to a seat in Convention, which, being read, and not objected to, he took his seat accordingly.

It was then moved, and seconded, that the Convention be adjourned to some distant day, for the Committee to sit and receive returns, and complete the business assigned them.

On a motion, made and seconded,

Voted, That Mr. STORER [be] excused, [and] Mr. WEST, in his stead, put on the Committee for arranging the returns, &c.

Mr. DREW, member for Kingston, proposed to make a return, as Moderator of the Meeting, of the doings of his constituents. Which, being put, passed in the affirmative.

It was moved, and seconded, that five gentlemen be added to the Committee. Which, being put, passed in the affirmative.

A nomination being called for, the following gentlemen were appointed, those of whom, which were excused, being noted against their names, viz:

SAMUEL A. OTIS, Esq. (excused.)
The Hon. Mr. GREENLEAF,
Mr. WELLS,
The Rev. Mr. CLARKE,
The Rev. Mr. HAVEN, (excused.)
SAMUEL WHITEMORE, Esq.
Mr. KIMBALL, (excused.)
Doct. JARVIS, (excused.)
Major DREW, (excused.)
Col. HALLET,
Rev. Mr. SANFORD.

The motion for adjournment being resumed, and debated, it was moved, and seconded, that the Convention be adjourned [to] Wednesday next, 3 o'clock. Which, being put, passed in the negative.

It was then moved, and seconded, that the Convention be

adjourned to 3 o'clock, to-morrow afternoon. Which, being put, passed in the affirmative.

And the Convention was accordingly adjourned.

TUESDAY, June, 3 o'clock, P. M.

Met according to adjournment.

Mr. BENJAMIN GARFIELD produced a certificate of his appointment to represent the town of Grafton in Convention. Which, being read, and not objected to, he took his seat accordingly.

The Committee on the returns reported, that they were ready to make a general report, in case the Convention would limit the time for their receiving returns, and from thence give them half a day to complete their accounts. Which being taken into consideration, it was moved, and seconded, that to-morrow, at 11 o'clock, A. M. be the time at which the last returns to be received be entered in the general account, and that the Committee report the same at 4 o'clock, to-morrow afternoon. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be adjourned to the last mentioned time.

It was moved, and seconded, that the vote for limiting the time for entering the returns to be received on the general account and return, be reconsidered, and that this evening be the time limited for entering the same on the account or return, to be laid before the Convention at the adjournment, and that the Committee make report of the amount, as far as received, of the Pros and Cons on every article, to-morrow, at 3 o'clock, P. M. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be adjourned to 3 o'clock, to-morrow afternoon. Which, being put, passed in the affirmative.

And the Convention was adjourned accordingly.

WEDNESDAY P. M. 14th.

Met according to adjournment.

The Committee on returns, made report (D*) of the General Return of the Votes of the People thro' the State, acting on the Constitution. Which, being read, and some debate had thereon, it was moved, and seconded, that the same be recommitted, in order to the Committee's perfecting the report.

The Secretary having informed the Convention that he had received two returns since completing the General Return, viz: one from Springfield and one from North Yarmouth; it was moved, and seconded, that they be added to the rest in the general return. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Convention be adjourned to to-morrow morning, 10 o'clock. Which, being put, passed in the affirmative.

And the Convention was accordingly adjourned.

[THURSDAY, JUNE 15. ?]

Several returns being brought in, viz: from Shirley, Franklin, and Wellfleet, on a motion, made and seconded,

Voted, That a Committee be appointed to arrange the same and report.

A nomination being called for,

The Hon. Mr. PICKERING,
JOHN LOWELL, Esq. and
The Hon. AZOR ORNE, Esq. were appointed.

The Committee on the General Return made return, (E) which was considered, and debated; when it was moved, and seconded, that the Convention go into the consideration of the 3d article in the Declaration of Rights, in order to determine whether the same has, or has not, been accepted, by two thirds of the persons voting thereon. Which, being put, passed in the affirmative.

The same was accordingly fully examined into by the Return above mentioned, when, on a motion, made and seconded,

Voted, That the Convention be adjourned to 3 o'clock, P. M. Which, being put, passed in the affirmative.

And the Convention was accordingly adjourned to that time.

* None of the Reports referred to in the Journal of the adjourned Session in June, are to be found on file.

Thursday P. M. 15th.

Met according to adjournment.

The consideration of the 3d article aforesaid being resumed, and debated, it was moved, and seconded, that the Convention proceed to take up the several articles in the Constitution distinctly, in their order, and that their sense be taken upon each. Which, being put, passed in the affirmative.

The several articles in the Declaration of Rights and Frame of Government were then read separately, and the following question put upon each, viz. Is it your opinion that the people have accepted of this article? Which, upon every individual article, passed in the affirmative by a very great majority.

It was then moved, and seconded, that the sense of the Convention on the Constitution in gross be taken by yeas and nays. Which, being put, passed in the negative.

It was then moved, and seconded, that the People of the State of Massachusetts Bay have accepted the Constitution as it stands in the printed form, submitted to their revision by the Resolves of 2d March last. Which, being put, passed in the affirmative by a very great majority.

It was moved, and seconded, that a Committee be appointed to consider and report the time and manner, in which the new Constitution shall take place, and to prepare a Resolve for that purpose. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Committee consist of five.

A nomination being called for, the following gentlemen were appointed, The Hon. Mr. PICKERING, (excused.)
Judge GREENLEAF,
General PALMER,
Mr. LOWELL, (excused.)
Col. ORNE, (excused.)
The Hon. Mr. WENDELL,
Mr. CABOT, (excused.)
The Rev. Mr. WEST. When, on a motion, made and seconded, it was

Voted, That an addition of four be made to the Committee.

The nomination continuing, the following gentlemen were appointed, viz. Col. CHURCH,
The Rev. Mr. CHAPLIN,
Col. KEYES,
Mr. WELLS, and
Mr. WOODBRIDGE.

It was then moved, and seconded, that the Convention be adjourned to to-morrow morning, 9 o'clock. Which, being put, passed in the affirmative.

The Convention was accordingly adjourned.

FRIDAY MORNING, 16th.

Met according to adjournment.

The Delegate from Rehoboth having produced certain papers, said to be explanatory of the return received from the said town, the same, on a motion, made and seconded, was

Voted, To be read, but as it soon appeared that they were of a private nature, it was moved, and seconded, that the vote for reading them be reconsidered, and that they be permitted to lie on the table. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Convention now proceed to receive and act upon the Report of the Committee upon the time and manner in which the Constitution shall take place.

The Committee then reported the Resolve. (G) Which, being twice read, the same was taken up, and considered in paragraphs.

The 1st as far as "March last," being read, it was on a motion, made and seconded,

Voted, That the words "of the said Convention" be added immediately after the word "Resolve."

Sundry amendments being proposed, it was moved, and seconded, that a question be put, whether the Convention would make any further alterations in the paragraph. Which, being put, passed in the negative.

The paragraph being then put, as first amended, the same was accepted.

The 2d as far as " Massachusetts " being read, was accepted.

The 3d to the close of the preamble was then read, and accepted.

The 1st paragraph of the Resolve, was then read, and accepted.

The 2d as far as " Counsellors " was read, and accepted.

The 3d as far as " Representatives," Ditto.

The 4th as far as " the same," Ditto.

It was then on a motion, made and seconded,

Voted, to insert the word " Plantation " in the 2d paragraph after the word " Town."

On a motion, made and seconded,

Voted, That the Report be recommitted in order to perfecting the same.

It was then moved, and seconded, that the papers in the hands of the Secretary, containing the whole or any part of the proceedings of this Convention, or of the several Towns and Plantations thro' the State on the Constitution, remain with him until a Secretary shall be appointed for the Commonwealth, under the new Constitution, and, that they then be delivered by him to the said Secretary, to be deposited in his office.

On a motion, made and seconded,

Voted, That the Committee on the time and manner of introducing the Constitution bring in a clause expressive of the time when the same shall be declared to take place.

It was then moved, and seconded, that the Convention be adjourned to three o'clock, P. M. Which, being put, passed in the affirmative. And the Convention was adjourned accordingly.

P. M. Three o'clock. Met according to adjournment.

The Committee on the time and manner of introducing the new Constitution, and of its taking place as the Government of this State, reported a new draught or substitute for the same. (H) Which, being considered and accepted in paragraphs, was read in whole, and accepted.

It was then moved, and seconded, that the President be desired to sign the same in the name of the Convention. Which, being put, passed in the affirmative.

On a motion made, and seconded,

Voted, That a Committee of five be appointed to wait on the two Houses of [the] Legislature, with an attested copy of the Resolves aforesaid. (H)

A nomination being called for, the following gentlemen were appointed, viz: The Hon. the President,
Judge GREENLEAF,
Gen. DANIELSON,
EBENEZER STORER, Esq. and
The Hon. OLIVER WENDELL, Esq.

It was then moved, and seconded, that a Committee be appointed to make application to the General Court, for payment of the attendance and travel of the members of this Convention, out of the Public Treasury. Which, being put, passed in the negative.

It was moved, and seconded, that a Committee be appointed to wait upon some gentleman of the Clergy, with the request of this Convention that he would preach a sermon suitable to the occasion, on the day on which the New Constitution is to take place. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the Delegates from the town of Boston be a Committee for this purpose. Which, being put, passed in the affirmative.

It was moved, and seconded, that a Committee be appointed to wait on the General Court, to request of them, if they see fit, to order the provision for the usual entertainment had on the days of General Election, to be made on the last Wednesday in October next, and that the Committee appointed to wait on the General Court with the Resolve aforesaid, be a Committee for that purpose. Which, being put, passed in the affirmative.

Moved and seconded, that the vote for appointing the Delegates from the town of Boston, a Committee to wait on a gentleman of the Clergy to preach on the day aforesaid, be reconsidered.

The same being put, passed in the affirmative.

It was then moved, and seconded, that the Committee appointed to present the Resolves of this Convention, respecting the time and manner of introducing the Constitution, be instructed to request of that House of the Legislature, whose

turn it may be to appoint a Minister to preach on the day of the next Election, to appoint, if they see fit, a Minister to preach on the last Wednesday in October. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the Secretary be directed to cause eighteen hundred copies of the Resolves aforesaid to be printed and dispersed through the State, by the 15th July next, in the same proportion as the copies of the Constitution were dispersed.

It was moved, and seconded, that a Committee be appointed to wait on the Rev. Dr. COOPER, requesting him to close the Convention with thanksgiving and prayer. Which, being put, passed in the affirmative.

A nomination being called for,

Mr. GORHAM,
Mr. OTIS, and
Mr. STORER, were appointed.

It was then moved, and seconded, that the thanks of the Convention be given to the Honorable the President, for his indefatigable services in conducting the business of the Convention. Which, being put, passed in the affirmative.

It was then moved, and seconded, that the thanks of the Convention be given to the Secretary, for his indefatigable services in the several Sessions of the Convention. Which, being put, passed in the affirmative.

On a motion, made and seconded,

Voted, That the thanks of the Convention be given to the Society usually meeting in this House for religious worship, for the use of the House during this session.

It was moved, and seconded, that when the business of this Convention shall be completed the same be dissolved. Which, being put, passed in the affirmative.

The Committee appointed to wait on the Rev. Dr. COOPER, not being able to find him, reported, whereupon on a motion, made and seconded,

Voted, That the Rev. Mr. THATCHER be desired to close the Convention with thanksgiving and prayer.

Which service being performed, it was moved, and second-

ed, that the Convention be now dissolved. Which, being put, passed in the affirmative.

The Convention was accordingly dissolved.

Friday, 16th June, P. M. 1780.

A true Copy of the votes and proceedings of the Convention.

Attest.

SAMUEL BARRETT, *Secretary.*

State of Massachusetts Bay.

IN CONVENTION, JUNE 16, 1780.

Whereas, Upon due Examination of the Returns made by the several Towns and Plantations, within this State, it appears that more than Two Thirds of the Inhabitants thereof, who have voted on the same, have expressed their approbation of the Form of Government agreed upon by this Convention, and laid before them for their Consideration, in conformity to a Resolve of the said Convention, of the second day of March last. This Convention do, hereupon, declare the said Form to be the Constitution of Government established by and for the Inhabitants of the State of Massachusetts Bay.

And as the said Inhabitants have authorized and empowered this Convention to agree upon a time when the same shall take place, in order that the good people of this State may have the benefit thereof, as soon as conveniently may be.

It is Resolved, That the said Constitution or Frame of Government shall take place on the last Wednesday in October next; and not before, for any purpose, save only for that of making elections agreeable to this Resolution.

And the first General Court under the same shall be holden on the said last Wednesday in October, at the State House in Boston, at ten o'clock in the forenoon. And in Order thereto, there shall be a meeting of the Inhabitants of each Town and Plantation in the several Counties within this State, legally warned and held, on the first Monday in September next, for the purpose of electing a Governor, Lieut. Governor, and Persons for Counsellors and Senators.—And there shall also be a Meeting of the Inhabitants of the several Towns within this State, duly warned and held, sometime in October next, and ten days at the least before the last Wednesday in the same month, for the purpose of choosing Representatives to serve in the said General Court. And the Selectmen are hereby enjoined to call

such meetings and to preside at the same. And in all elections, and in making, receiving, and examining Returns, and in conducting the whole business of organizing and establishing the said General Court, the same rules are to be observed, that are prescribed in the Form of Government for making such elections, and for the constituting the first General Court; saving only the difference of time.

And be it further Resolved, That SAMUEL BARRETT, Esq. (Secretary to this Convention) do, on or before the Fifteenth Day of July next, cause printed Copies of this Resolution to be sent to the Selectmen of the several Towns, and the Assessors of the several Plantations aforesaid, who are respectively to perform the duties required by this Resolution, and to make seasonable and regular Returns of the Persons elected to the several Offices herein mentioned, into the Secretary's Office of this State, agreeably to the rules contained in the Form of Government above referred to.

In the Name, and pursuant to a Resolution of the Convention.

JAMES BOWDOIN, *President.*,

Attest.

SAMUEL BARRETT, *Secretary.*

APPENDIX.

NO. I.

Resolve for taking the sense of the People upon the subject of a New Constitution.

STATE OF MASSACHUSETTS BAY.

IN THE HOUSE OF REPRESENTATIVES, FEB. 19, 1779.

Whereas, The Constitution or Form of Civil Government, which was proposed by the late Convention of this State to the People thereof, hath been disapproved by a majority of the Inhabitants of said State,—*

And whereas, It is doubtful from the Representations made to this Court, what are the sentiments of the major part of the good People of this State, as to the expediency of now proceeding to form a new Constitution of Government,—

Therefore Resolved, That the Selectmen of the several towns within this State cause the Freeholders and other Inhabitants in their respective towns, duly qualified to vote for Representatives, to be lawfully warned to meet together in some convenient place therein, on or before the last Wednesday of May next, to consider of, and determine upon, the following questions:—

First.—Whether they choose, at this time, to have a new Constitution or Form of Government made.

Secondly.—Whether they will empower their Representatives for the next year to vote for the calling a State Convention, for the sole purpose of forming a new Constitution; provided it shall appear to them, on examination, that a major part of the People present and voting at the meetings, called in the manner and for the purpose aforesaid, shall have answered the first question in the affirmative?

* See No 5 of this Appendix.

And in order that the sense of the People may be known thereon,—

Be it further Resolved, That the Selectmen of each town be and hereby are directed to return into the Secretary's Office, on or before the first Wednesday in June next, the doings of their respective towns, on the first question above mentioned, certifying the numbers voting in the affirmative, and the numbers voting in the negative, on said question.

Sent up for concurrence.

JOHN PICKERING, *Speaker.*

IN COUNCIL, FEB. 20, 1779.

Read and concurred.

JOHN AVERY, *D. Secretary.*

NO. II.

[*This important Document, so necessary to explain the Text of the Journal itself, was not among the papers of the Convention in the Secretary's office, nor, after diligent enquiry, was it discovered elsewhere, until the body of this work had gone to press, (see pages* 35 *and* 36*) when, in consequence of a notice in the public papers, a copy was kindly presented by Turell Tufts Esq. of Medford, who found it among the papers of his relative, Stephen Hall, tertius, Esq. a Member of the Convention. The loan of a copy has also been politely tendered by the Essex Historical Society; and it is understood that some other copies are extant.*]

The REPORT OF A CONSTITUTION, *or Form of Government,* **for the COMMONWEALTH OF MASSACHUSETTS;—Agreed upon by the Committee—to be laid before the CONVENTION OF DELEGATES, assembled at CAMBRIDGE, on the first day of September, A. D. 1779; and continued by Adjournment to the twenty-eighth day of October following.**

To the Honorable the Convention of Delegates from the several Towns in the State of Massachusetts, appointed for the forming a new Constitution of Government for the said State.

GENTLEMEN,—

Your Committee, in pursuance of your instructions, have prepared the Draught of a new Constitution of Government for this State; and now make report of it: which is respectfully laid before you, in the following pages, for your consideration and correction.

In the name of the Committee,

JAMES BOWDOIN, *Chairman.*

A

CONSTITUTION OR FORM OF GOVERNMENT

FOR THE

Commonwealth of Massachusetts.

PREAMBLE.

The end of the institution, maintenance and administration of government, is to secure the existence of the body politic; to protect it, and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life: And whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, happiness and prosperity.

The body politic is formed by a voluntary association of individuals: It is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a Constitution of Government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them, that every man may, at all times, find his security in them.

We, therefore, the Delegates of the People of Massachusetts, in General Convention assembled, for the express and sole purpose of framing a Constitution or Form of Government, to be laid before our Constituents, according to their instructions, acknowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording to this people, in the course of His Providence, an opportunity of entering into an original, explicit, and solemn compact with each other, deliberately and peaceably, without fraud, violence, or surprise; and of forming a new Constitution of Civil Government, for themselves and their posterity; and devoutly imploring His direction in a design so interesting to them and their posterity,—Do, by virtue of the authority vested in us, by our constituents, agree upon the following *Declaration of Rights, and Frame of Government, as the* CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

Art. I.—ALL men are born equally free and independent, and have certain natural, essential, and unalienable rights: among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting their property; in fine, that of seeking and obtaining their safety and happiness.

II.—It is the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great creator and preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty or estate, for worshiping GOD in the manner most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III.—Good morals being necessary to the preservation of civil society; and the knowledge and belief of the being of GOD, His providential government of the world, and of a future state of rewards and punishment, being the only true foundation of morality, the legislature hath therefore a right, and ought, to provide at the expense of the subject, if necessary, a suitable support for the public worship of GOD, and of the teachers of religion and morals; and to enjoin upon all the subjects an attendance upon their instructions, at stated times and seasons: Provided there be any such teacher, on whose ministry they can conscientiously and conveniently attend.

All monies, paid by the subject to the support of public worship, and of the instructors in religion and morals, shall, if he requires it, be uniformly applied to the support of the teacher or teachers of his own religious denomination, if there be such whose ministry he attends upon: otherwise it may be paid to the teacher or teachers of the parish or precinct where he usually resides.

IV.—The people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which are not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

V.—All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them.

VI.—No man, nor corporation or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, law-giver, or judge, is absurd and unnatural.

VII.—Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestible, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

VIII.—In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as may be delineated in their frame of government, to cause their public officers to return to private life, and to fill up vacant places by certain and regular elections.

IX.—All elections ought to be free; and all the male inhabitants of this Commonwealth, having sufficient qualifications, have an equal right to elect officers, and to be elected for public employments.

X.—Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: But no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not controlable by any other laws, than those to which their constitutional representative body have given their consent.

XI.—Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character: He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII.—No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him.

He cannot be compelled to accuse himself, or to furnish evidence against himself; and every subject shall have a right to be fully heard in his defence, by himself or his council, at his election; to meet the witnesses against him face to face; to produce all proofs that may be favourable to him; to require a speedy and public trial by an impartial jury of the country, without whose unanimous consent, or his own voluntary confession, he cannot finally be declared guilty, or sentenced to loss of life, liberty or property.

XIII.—In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty and property of the citizen.

XIV.—No subject of the Commonwealth shall be arrested, imprisoned, despoiled, or deprived of his property, immunities or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty or estate, but by the judgment of his peers or the law of the land.

XV.—Every man has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest or seizure; and no warrant ought to be issued but in cases and with the formalities prescribed by the laws.

XVI.—In all controversies concerning property, and in all suits between two or more persons, the parties have a right to a trial by a jury; and this method of procedure shall be held sacred; unless, in causes arising on the high-seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it.

XVII.—The people have a right to the freedom of speaking, writing and publishing their sentiments: The liberty of the press therefore ought not to be restrained.

XVIII.—The people have a right to keep and to bear arms for the common defence. And as in time of peace standing armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

XIX.—A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the

advantages of liberty, and to maintain a free government: The people ought, consequently, to have a particular attention to all those principles in the choice of their officers and representatives: And they have a right to require of their law-givers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

XX.—The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives; and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and the grievances they suffer.

XXI.—The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for: And there shall be no suspension of any law for the private interest, advantage, or emolument, of any one man or class of men.

XXII.—The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XXIII.—The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws as the common good may require.

XXIV.—No subsidy, charge, tax, impost or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

XXV.—Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXVI.—No man ought in any case, or in any time, to be declared guilty of treason or felony by any act of the legislature.

XXVII.—No magistrate or court of law shall demand excessive bail, or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXVIII.—In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made, but by the civil magistrate in a manner ordained by the legislature.

XXIX.—No person can in any case be subjected to law martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXX.—It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

XXXI.—The judicial department of the State ought to be separate from, and independent of, the legislative and executive powers.

CHAPTER II.

The Frame of Government.

The people inhabiting the territory heretofore called the Province of Massachusetts-Bay, do hereby solemnly and mutually agree with each other, to, form themselves into a free, sovereign, and independent body-politic or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

In the government of the Commonwealth of Massachusetts, the legislative, executive, and judicial power, shall be placed in separate departments to the end that it might be a government of laws and not of men.

SECTION I.

Art. I.—The department of legislation shall be formed by two branches, a *Senate* and *House of Representatives*; each of which shall have a negative on the other.

They shall assemble once, on the last Wednesday in May, and at such other times as they shall judge necessary, every year; and shall be stiled, THE GENERAL COURT OF MASSACHUSETTS.

And the first magistrate shall have a negative upon all the laws—that he may have power to preserve the independence of the executive and judicial departments.

II.—The General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixt; and for the awarding and making out of execution thereupon: To which courts and judicatories, are hereby given and granted full power and authority from time to time to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

III.—And further, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this Constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said Commonwealth; such officers excepted, the election and constitution of whom are not hereafter in this Form of Government otherwise provided for; and to set forth the several duties, powers and limits of the several civil and military officers of this Commonwealth, and the forms of such oaths as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this Constitution; and also to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon the persons of all the inhabitants of and residents within the said Commonwealth, and upon all estates within the same; to be issued and disposed of by warrant, under the hand of the Governor of this Commonwealth for the time being, with the advice and consent of the Council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same; and to dispose of matters and things whereby they may be religiously, peaceably, and civilly governed, protected, and defended.

And that public assessments may be made with equality, there shall be a valuation of estates within the Commonwealth taken anew once in every ten years at the least.

SECTION II.

Senate.

I.—THERE shall be annually elected by the freeholders and other inhabitants of this Commonwealth, qualified as in this Constitution is provided forty persons to be Counsellors and Senators for the year ensuing their election, to be chosen in and by the inhabitants of the districts into which the Commonwealth may from time to time be divided by the General Court, for that purpose: And the General Court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the Commonwealth, the limits of each district, and the number of Counsellors and Senators to be chosen therein; provided that the number of such districts shall be never more than sixteen nor less than ten.

AND the several counties in this Commonwealth shall, until the General Court shall determine it necessary to alter said districts, be districts for the choice of Counsellors and Senators (except that the counties of Dukes-County and Nantucket shall form one district for that purpose) and shall elect the following number for Counsellors and Senators, viz.

Suffolk,	6	York,	2
Essex,	6	Dukes-County and Nantucket,	1
Middlesex,	5		
Hampshire,	4	Worcester,	5
Plymouth,	3	Cumberland,	1
Barnstable,	1	Lincoln,	1
Bristol,	3	Berkshire,	2

II.—THE Senate shall be the first branch of the legislature; and the Senators shall be chosen in the following manner, viz. There shall be a meeting on the first Monday in April annually, forever, of the inhabitants of all the towns in the several counties of this Commonwealth, to be called by the Selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be Senators and Counsellors: And at such meetings every male person of twenty-one years of age and upwards, resident in such towns one year next preceding the annual election of Senators, having a freehold estate within the Commonwealth, of the annual income of three pounds, or other real or personal estate of the value of sixty pounds, shall have a right to give in his vote for the Senators for the district.

THE Selectmen of the several towns shall preside at such meetings, and shall be under oath, as well as the Town-Clerk, to preside impartially, according to their best skill and judgment; and to make a just and true return.

THE Selectmen shall receive the votes of all the inhabitants of such towns qualified to vote for Senators, and shall sort and count them in open town-

meeting, and in presence of the Town-Clerk, who shall make a fair record, n presence of the Selectmen, and in open town-meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the Selectmen and the Town-Clerk, and shall be sealed up, directed to the Secretary of the Commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the Town-Clerk of such towns, to the Sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May annually; or it shall be delivered into the Secretary's office seventeen days at least before the said last Wednesday in May; and the Sheriff of each county shall deliver all such certificates by him received into the Secretary's office seventeen days before the said last Wednesday in May.

And the inhabitants of plantations unincorporated, qualified as this Constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for Counsellors and Senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation-meetings for that purpose shall be held annually on the same first Monday in April, at such place in the plantations respectively, as the Assessors thereof shall direct; which Assessors shall have like authority for notifying the electors, collecting and returning the votes, as the Selectmen and Town-Clerks have in their several Towns by this Constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of Government by the Assessors of an adjacent town, shall have the privilege of giving in their votes for Counsellors and Senators, in the town where they shall be assessed, and be notified of the place of meeting by the Selectmen of the Town where they shall be assessed for that purpose accordingly.

III.—And that there may be a due convention of Senators on the last Wednesday in May annually, the Governor, with five of the Council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by a majority of voters, to attend on that day and take their seats accordingly: Provided nevertheless, that for the first year the said returned copies shall be examined by the President and five of the Council of the former Constitution of Government; and the said President shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

IV.—The Senate, however, shall be the final judge of the elections, returns and qualifications of their own members; and shall, on the said last Wednesday in May annually, determine and declare who are elected by each district, to be Senators by a majority of votes: And in case there shall not appear to be the full number of Senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following man-

ner, viz. The members of the House of Representatives, and such Senators as shall be declared elected, shall take the names of twice the number of Senators wanting, from those who shall be found to have the highest number of votes in such district, and not elected; and out of these shall elect, by ballot, a number of Senators, sufficient to fill up the vacancies in such district: And in this manner all such vacancies shall be filled up in every district of the Commonwealth; and in like manner all vacancies in the Senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be after such vacancies shall happen.

V.—Provided nevertheless, that no person shall be capable of being elected as a Senator who is not of the christian religion, and seized in his own right of a freehold within this Commonwealth, of the value of three hundred pounds at least, and who has not been an inhabitant of this Commonwealth for the space of seven years, three of which immediately preceding his election, and in the district for which he shall be chosen.

VI.—The Senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

VII.—The Senate shall choose its own President, appoint its own officers, and determine its own rules of procedings.

VIII.—The Senate shall be a court with full authority to hear and determine all impeachments made by the House of Representatives, against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment, the members of the Senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office, and disqualification to hold or enjoy any place of honor, trust, or profit, under this Commonwealth: But the party so convicted, shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

SECTION III.

House of Representatives.

I.—There shall be in the legislature of this Commonwealth, a representation of the people, annually elected, and founded in equality.

II.—And in order to provide for a representation of the citizens of this Commonwealth, founded upon the principle of equality every corporate town containing one hundred and fifty rateable polls, may elect one Representative: Every corporate town, containing three hundred and seventy-five rateable polls, may elect two Representatives: Every corporate town, containing

six hundred rateable polls, may elect three Representatives; and proceeding in that manner, making two hundred and twenty-five rateable polls the mean increasing number for every additional Representative.

And forever hereafter the least number of rateable polls necessary to entitle a corporate town to elect one Representative, when increased by the addition of a number equal to half the said least number, shall be the mean increasing number of rateable polls for every additional Representative any corporate town may elect.

And to prevent hereafter the House of Representatives from becoming unweildy, and incapable of debating, and deliberating, by the great additions it would continually receive from the increasing settlement, and population of this Commonwealth, no corporate town shall, from and after the Year of our Lord one thousand seven hundred and ninety, be entitled to elect one Representative, unless it shall contain two hundred rateable polls; nor to elect two Representatives unless it shall contain five hundred rateable polls; nor to elect three Representatives unless it shall contain eight hundred rateable polls; and so proceeding in that manner, making by the aforesaid rule three hundred rateable polls the mean increasing number for every additional Representative. And every tenth year, from and after the said year of our Lord one thousand seven hundred and ninety, and until such time as the number of Representatives, which may be elected for this Commonwealth, shall not exceed the number of two hundred, the least number of rateable polls, which at that time any corporate town must contain to entitle it to elect one Representative, shall be increased by the addition of fifty; and the least number aforesaid, thus increased by the said addition, shall be the number of rateable polls any corporate town must contain to entitle it to elect one Representative: and the number of Representatives any corporate town may elect shall be regulated accordingly by the rules aforesaid.

The freeholders and other inhabitants of this Commonwealth, qualified to vote for Representatives, living in corporate towns, which severally shall contain a less number of rateable polls than is necessary to entitle them respectively to elect one Representative, shall, nevertheless, have a right to associate with some town or towns adjoining, for the election of Representatives; and in such cases the voters thus united, shall have a right to elect the same number of Representatives as they would have done were they inhabitants of one corporate town; which Representatives may be elected out of either of the associated towns indifferently: And the legislature shall from time to time determine what towns shall thus associate, the manner of the association, and the method and manner of calling and conducting the meetings of the associated towns for the election of Representatives.

III.—The members of the House of Representatives shall be chosen by written votes; and no person shall be qualified, or eligible, to be a member of the said house, unless he be of the christian religion, and for one year at least next preceding his election shall have been an inhabitant of, and have

been seized in his own right of a freehold of the value of one hundred pounds within the town or towns he shall be chosen to represent; and he shall cease to represent the said town or towns, immediately on his ceasing to be a freeholder within the same.

IV.—Every male person, being twenty-one years of age, and resident in any particular town in this Commonwealth for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or other estate, real, or personal or mixt, of the value of sixty pounds, shall have a right to vote in the choice of a Representative or Representatives for the said town, or for the towns united as aforesaid.

V.—The members of the House of Representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month, from among the wisest, most prudent, and virtuous of the freeholders.

VI.—The House of Representatives shall be the Grand Inquest of this Commonwealth; and all impeachments made by them shall be heard, and tried by the Senate.

VII.—All money-bills shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

VIII.—The House of Representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

IX.—Not less than sixty members of the House of Representatives shall constitute a quorum for doing business.

X.—The House of Representatives shall chuse their own Speaker, appoint their own officers, and settle the rules and orders of proceeding in their own house: They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house, in its presence, by any disorderly, or contemptuous behaviour; or by threatning or ill treating any of its members; or, in a word, by obstructing its deliberations; every person guilty of a breach of its privileges, in making arrests for debts, or by assaulting one of its members during his attendance at any session, or on the road, whether he be going to the house or returning home; in assaulting any one of its officers, or in disturbing him in the execution of any order, or procedure of the house; in assaulting or troubling any witness or other person, ordered to attend the house, in his way in going or returning, or in rescuing any person arrested by order of the house.

XI.—The Senate shall have the same powers in the like cases; and the

Governor and Council shall have the same authority to punish in like cases. Provided that no imprisonment, on the warrant or order of the Governor, Council, Senate, or House of Representatives, for either of the above described offences, be for a term exceeding thirty days.

CHAPTER III.

Executive Power.

SECTION I.

Governor.

ART. 1.—There shall be a Supreme Executive Magistrate, who shall be stiled, THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be—HIS EXCELLENCY.

II.—THE Governor shall be chosen annually; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding; and unless he shall at the same time be seized in his own right of a Freehold within the Commonwealth, of the value of One Thousand Pounds; and unless he shall be of the Christian Religion.

III.—THOSE persons, who shall be qualified to vote for Senators and Representatives within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April annually, give in their votes for a Governor to the Selectmen, who shall preside at such meetings; and the Town Clerk, in the presence and with the assistance of the Selectmen, shall, in open town-meeting, sort and count the votes and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting, and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the Selectmen, and transmit the same to the Sheriff of the county thirty days at least before the last Wednesday in May; or shall cause returns of the same to be made to the office of the Secretary of the Com-

monwealth, seventeen days at least before the said day, who shall lay the same before the Senate and the House of Representatives, on the last Wednesday in May, to be by them examined; and in case of an election by a majority of votes through the Commonwealth, the choice shall be by them declared and published: But if no person shall have a majority of votes, the House of Representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for, but if otherwise, out of the number voted for; and make return to the Senate of the two persons so elected; on which the Senate shall proceed, by ballot, to elect one, who shall be declared Governor.

IV.—The person chosen Governor, and accepting the trust, shall, in the presence of the two Houses, and before he proceed to execute the duties of his office, make and subscribe the following declaration, and take the following oaths, to be administered by the President of the Senate: viz.—

I, A. B. being declared duly elected Governor of the Commonwealth of Massachusetts, do now declare, that I believe and profess the christian religion, from a firm persuasion of its truth; and that I am seized and possessed in my own right of the property required by law, as one qualification for that office.

I, A. B. do solemnly swear, that I bear faith and true allegiance to the Commonwealth of Massachusetts; that I will faithfully and impartially discharge and perform all the duties incumbent on me as a Governor of this Commonwealth, according to the best of my abilities and understanding, agreeably to the rules and regulations of the Constitution; and that I will not attempt or consent to a violation thereof. So help me GOD.

V.—The Governor shall have authority from time to time, at his discretion, to assemble and call together the Counsellors of this Commonwealth for the time being; and the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth according to law.

VI.—The Governor, with advice of Council, shall have full power and authority, in the recess of the General Court, to prorogue the same from time to time, not exceeding ninety days in any one recess of the said Court; and during the Session of the said Court, to adjourn or prorogue it to any time the two Houses shall desire, and to dissolve the same at their request, or on the Wednesday next preceding the last Wednesday in May; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same.

VII.—In cases of disagreement between the two Houses, with regard to the time of adjournment or prorogation, the Governor, with advice of the

Council, shall have a right to adjourn or prorogue the General Court, as he shall determine the public good shall require.

VIII.—The Governor of this Commonwealth, for the time being, shall be the commander in chief of the army, and navy, and of all the military forces of the State, by sea and land; and shall have full power by himself, or by any chief commander, or other officer or officers, to be appointed by him from time to time, to train, instruct, exercise, and govern, the militia and navy; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist, and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth; and also to kill, slay, destroy, and conquer, by all fitting ways, enterprizes, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner attempt, or enterprize the destruction, invasion, detriment, or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, or rebellion, as occasion shall necessarily require; and also from time to time to erect forts, and to fortify any place or places within the said Commonwealth, and the same to furnish with all necessary ammunition, provisions, and stores of war, for offence or defence; and to commit from time to time the custody and government of the same to such person or persons as to him shall seem meet: and in times of emergency the said forts and fortifications to demolish at his discretion; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this Commonwealth; and in fine, that the Governor be intrusted with all other powers incident to the offices of Captain-General and Commander in Chief, and Admiral, to be exercised agreeably to the rules and regulations of the Constitution, and the laws of the land.

Provided, that the said Governor shall not, at any time hereafter, by virtue of any power by this Constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court; nor grant commissions for exercising the law-martial upon any of the inhabitants of this Commonwealth, without the advice and Consent of the Council of the same.

IX.—The power of pardoning offences, except such as persons may be convicted of before the Senate by an impeachment of the House, shall be in the Governor, by and with the advice of Council: But no charter of pardon, granted by the Governor, with advice of the Council, before conviction, shall avail the party pleading the same notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

X.—All judicial officers, the Attorney-General, the Solicitor-General, all Sheriffs, Coroners, Registers of Probate, and Registers of Maritime Courts, shall be nominated and appointed by the Governor, by and with the advice and consent of the Council; and every such nomination shall be made by the Governor, and made at least seven days prior to such appointment.

XI.—All officers of the militia shall be appointed by the Governor, with the advice and consent of the Council; he first nominating them seven days at least before the appointment.

XII.—All monies shall be issued out of the treasury of this Common wealth, and disposed of by warrant under the hand of the Governor for the time being, with the advice and consent of the Council, for the necessary defence and support of the Commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

XIII.—All public Boards, the Commissary General, all superintending Officers of public magazines and stores, belonging to this Commonwealth, and all commanding Officers of forts and garrisons within the same, shall once in evey three months officially, and without requisition, and at other times, when required by the Governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality, and kind of each, as particularly as may be; together with the condition of such forts and garrisons: and the said commanding Officers shall exhibit to the Governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or harbours, adjacent.

And the said Boards, and all public Officers, shall communicate to the Governor, as soon as may be after receiving the same, all letters, dispatches, and intelligences, of a public nature, which shall be directed to them respectively.

XIV.—And to prevent an undue influence in this Commonwealth, which the first magistrate thereof may acquire, by the long possession of the important powers and trusts of that office; as also to stimulate others to qualify themselves for the service of the public in the highest stations, no man shall be eligible as Governor of this Commonwealth, more than five years in any seven years.

XV.—As the public good requires, that the Governor should not be under the undue influence of any of the members of the General Court by a dependence on them for his support—that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and

that he should maintain the dignity of the Commonwealth in the character of its Chief Magistrate—it is necessary, that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the General Court, after the commencement of this Constitution, to establish such salary by law accordingly.

PERMANENT and honorable salaries shall also be established by law for the Justices of the Superior Court.

AND if it shall be found, that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged as the General Court shall judge proper.

SECTION II.

Lieutenant Governor, and the ascertaining the Value of the Money mentioned in this Constitution, as Qualifications to Office, &c.

I.—THERE shall be annually elected a Lieutenant Governor of the Commonwealth of Massachusetts, whose title shall be———HIS HONOR—and who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the Governor. He shall be chosen on the same day, in the same manner, and by the same persons. The return of the votes for this officer, and the declaration of his election, shall be in the same manner: And if no one person shall be found to have a majority of votes, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to be elected, in case no one person has a majority of the votes of the people to be Governor.

II.—THE Lieutenant-Governor shall always be, ex-officio, a member, and, in the absence of the Governor, President, of the Council.

III.—WHENEVER the chair of the Governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the Lieutenant-Governor, for the time being, shall, during such vacancy, have and exercise all the powers and authorities, which by this Constitution the Governor is vested with, when personally present.

IV.—THE respective values, assigned by the several articles of this Constitution, to the property necessary to qualify the subjects of this Commonwealth to be electors, and also to be elected into several offices, for the holding of which such qualifications are required, shall always be computed in silver at the rate of six shillings and eight pence per ounce.

V.—AND it shall be in the power of the legislature from time to time, to increase such qualifications of the persons to be elected to offices, as the circumstances of the Commonwealth shall require.

SECTION III.

Council, and the Manner of settling Elections by the Legislature; Oaths to be taken, &c.

I.—THERE shall be a Council for advising the Governor in the executive part of government, to consist of nine persons besides the Lieutenant-Governor, whom the Governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

II.—NINE Counsellors shall, out of the persons returned for Counsellors and Senators, be annually chosen, on the last Wednesday in May, by the joint ballot of the Senators and Representatives assembled in one room. The seats of the persons, thus elected into the Council, and accepting the trust, shall be vacated in the Senate; and in this manner the number of Senators shall be reduced to thirty one.

III.—THE Counsellors, in the civil arrangements of the Commonwealth, shall have rank next after the Lieutenant-Governor.

IV.—NOT more than two Counsellors shall be chosen out of any one county of this Commonwealth.

V.—THE resolutions and advice of the Council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either House of the legislature; and any member of the Council may insert his opinion contrary to the resolution of the majority.

VI.—WHENEVER the office of the Governor and Lieutenant-Governor shall be vacant, by reason of death, absence, or otherwise, then the Council, or the major part of them, shall, during such vacancy, have full power and authority, to do, and execute, all and every such acts, matters and things, as the Governor or the Lieutenant-Governor might or could, by virtue of this Constitution, do or execute, if they, or either of them, were personally present.

VII.—AND whereas the elections appointed to be made by this Constitution, on the last Wednesday in May annually, by the two Houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows, the vacancies in the Senate, if any, shall first be filled up, the Governor and Lieutenant-Governor shall then be elected;

provided there should be no choice of them by the people: and afterwards the two Houses shall proceed to the election of the Council.

VIII.—The Lieutenant-Governor, Counsellors, Senators, and Members of the House of Representatives, shall, before they enter on the execution of their respective offices, make and subscribe the same declaration, and take the same oath, *(mutatis mutandis)* which the Governor is directed by this Constitution to make, subscribe and take.

And every person, appointed to any civil or military office of this Commonwealth, shall, previous to his entering on the execution of his office, make and subscribe the following declaration, *(mutatis mutandis)* viz.—

I, A. B. being appointed do now declare, that I believe and profess the christian religion, from a firm persuasion of the truth thereof.

And he shall likewise take an oath of the form following, *(mutatis mutandis)* viz.—

I, A. B. do solemnly swear, that I will bear faith, and true allegiance to the Commonwealth of Massachusetts; that I will faithfully and impartially discharge, and perform all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the rules and regulations of the Constitution; and that I will not attempt, or consent to, a violation thereof. So help me GOD.

Provided notwithstanding, that any person, so appointed, who has conscientious scruples relative to taking oaths, may be admitted to make solemn affirmation, under the pains and penalties of perjury, to the truth of the matters, contained in the form of the said oath, instead of taking the same.

SECTION IV.

Secretary, Treasurer, Commissary, &c.

I.—The Secretary, Treasurer and Receiver-General, and the Commissary-General, Notaries-Public, and Naval-Officers, shall be chosen annually, by joint ballot of the Senators and Representatives in one room. And that the citizens of this Commonwealth may be assured, from time to time, that the monies remaining in the public Treasury, upon the settlement, and liquidation of the public accounts, are their property, no man shall be eligible as Treasurer and Receiver-General more than five years successively.

II.—The records of the Commonwealth shall be kept in the office of the Secretary, who shall attend the Governor and Council, the Senate and House of Representatives, in person, or by his Deputies, as they shall respectively require.

CHAPTER IV.

Judiciary Power.

ART. I.—THE tenure, that all commission officers by law hold in their offices, shall be expressed in their respective commissions. All judicial officers duly appointed, commissioned and sworn, shall hold their offices during good behavior: Provided nevertheless, the Governor, with consent of the Council, may remove them upon the address of both Houses of the Legislature: and all other officers, appointed by the Governor and Council, shall hold their offices during pleasure.

II.—No Justice of the Superior Court of Judicature, Court of Assize, and General Gaol Delivery, shall have a seat in the Senate, or House of Representatives.

III.—THE Senate, nevertheless, as well as the Governor and Council, shall have authority to require the opinions of the Judges upon important questions of law, and upon solemn occasions.

IV.—IN order that the people may not suffer from the long continuance in place of any Justice of the Peace, who shall fail of discharging the important duties of his office, with ability or fidelity, all commissions of Justices of the Peace shall expire and become void, in the term of seven years, from their respective dates; and upon the expiration of any commission, the Governor and Council may, if necessary, renew such commissions, or appoint another person, as shall most conduce to the well-being of the Commonwealth.

V.—THE Judges of Probate of Wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require. And the legislature shall, from time to time, hereafter appoint such times and places: until which appointments, the said courts shall be holden at the times and places, which the respective Judges shall direct.

VI.—ALL causes of marriage, divorce and alimony, shall be determined by the Senate; and all appeals from the Judges of Probate shall be heard, and determined, by the Governor and Council, until the legislature shall, by law, make other provision.

CHAPTER V.

Delegates to Congress, Commissions, Writs, Indictments, &c. Confirmation of Laws,—Habeas Corpus,—and enacting Style.

ART. I.—The Delegates of this Commonwealth to the Congress of the United States of America, shall, on the second Wednesday of November, if the General Court be then sitting, or on the second Wednesday of the Session next after, be elected annually, by the joint ballot of the Senate, and House of Representatives, assembled together in one room. They shall have commissions under the hand of the Governor, and under the great seal of the Commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

II.—ALL commissions shall be in the name of the Commonwealth of Massachusetts, signed by the Governor, and attested by the Secretary or his Deputy; and have the great seal of the Commonwealth affixed thereto.

III.—ALL writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts. They shall be under the seal of the court, from whence they issue. They shall bear test of the Chief Justice, or first, or senior Justice of the Court, to which they shall be returnable, and be signed by the clerk of such court.

IV.—ALL indictments, presentments, and informations, shall conclude, "against the peace of the Commonwealth and the dignity of the same."

V.—ALL the statute-laws of the Province, Colony, or State, of Massachusetts-Bay, the common law, and all such parts of the English or British statutes, as have been adopted, used and approved in the said Province, Colony, or State, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights, and liberties, contained in this Constitution.

VI.—THE privilege and benefit of the writ of *Habeas Corpus* shall be enjoyed in this Commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a short and limited time.

VII.—THE enacting style, in making and passing all acts, statutes and laws, shall be—"Be it enacted by his Excellency the Governor, the Senate, and House of Representatives, in General Court assembled, and by the authority of the same."——— Or, "By his Honor the Lieutenant-Governor," &c, or "The Honorable the Council," &c. as the case may be.

CHAPTER VI.

The University at Cambridge, and Encouragement of Literature, &c.

SECTION I.

The University.

ART. I.—WHEREAS our wise and pious ancestors, so early as the year one thousand six hundred and thirty six, laid the foundation of Harvard-College, in which University many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences, which qualified them for public employments, both in Church and State: And whereas the encouragement of Arts and Sciences, and all good literature, tends to the honor of GOD, the advantage of the christian religion, and the great benefit of this, and the other United States of America—It is declared, That the PRESIDENT AND FELLOWS OF HARVARD-COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy: and the same are hereby ratified and confirmed unto them, the said President and Fellows of Harvard-College, and to their successors, and to their officers and servants, respectively, forever.

II.—AND whereas there have been, at sundry times, by divers persons, gifts, grants, devises, of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard-College in Cambridge, in New-England, or to the President and Fellows of Harvard-College, or to the said College, by some other description, under several Charters successively: IT IS DECLARED, That all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the President and Fellows of Harvard-College, and to their successors, in the capacity aforesaid, according to the true intent, and meaning of the donor or donors, grantor or grantors, devisor or devisors.

III.—AND whereas, by an act of the General Court of the Colony of Massachusetts-Bay, passed in the year one thousand six hundred and forty two, the Governor and Deputy-Governor, for the time being, and all the magistrates of that jurisdiction, were, with the President, and a number of the Cler-

gy, in the said act described, constituted the Overseers of Harvard-College: And it being necessary, in this new Constitution of Government, to ascertain who shall be deemed Successors to the said Governor, Deputy-Governor, and Magistrates: IT IS DECLARED, That the Governor, Lieutenant-Governor, Council and Senate of this Commonwealth, are, and shall be deemed, their Successors; who, with the President of Harvard-College, for the time being, together with the Ministers of the Congregational churches, in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the Overseers of Harvard-College; PROVIDED, that nothing herein shall be construed to prevent the Legislature of this Commonwealth from making such alterations in the Government of the said University, as shall be conducive to its advantage, and the interest of the Republic of Letters, in as full a manner as might have been done by the Legislature of the Province of the Massachusetts-Bay.

SECTION II.

The Encouragement of Literature, &c.

WISDOM, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislators and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings, sincerity, good humor, and all social affections, and generous sentiments among the people.

CHAPTER VII. AND LAST.

Continuance of Officers, &c.

To the end there may be no failure of justice, or danger arise to the Com monwealth from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts-Bay, in New-England, and all other officers of the said government and people at the time this Constitution shall take effect, shall have, hold, use, exercise, and enjoy all the powers and authority to them granted or committed, until other persons shall be appointed in their stead: And all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers, shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority, until the General Court, and the supreme and executive officers, under this Constitution, are designated, and invested with their respective trusts, powers and authority.

NO. III.

AN ADDRESS OF THE CONVENTION, for *Framing a New Constitution of Government*, for the STATE OF MASSACHUSETTS-BAY, to their CONSTITUENTS.

FRIENDS AND COUNTRYMEN,—

HAVING had your Appointment and Instruction, we have undertaken the arduous Task of preparing a civil Constitution for the People of the Massachusetts-Bay; and we now submit it to your candid Consideration. It is your *Interest* to revise it with the greatest Care and Circumspection, and it is your undoubted *Right*, either to propose such Alterations and Amendments as you shall judge proper, or, to give it your own Sanction in its present Form, or, totally to reject it.

IN framing a Constitution, to be adapted as far as possible to the Circumstances of Posterity yet unborn, you will conceive it to be exceedingly difficult, if not impracticable, to succeed in every part of it, to the full Satisfaction of all. Could the *whole Body* of the People have Convened for the same Purpose, there might have been equal Reason to conclude, that a perfect Unanimity of Sentiments would have been an Object not to be obtained. In a Business so universally interesting, we have endeavored to act as became the Representatives of a wise, understanding and free People; and, as we have Reason to believe you would *yourselves* have done, we have opened our Sentiments to each other with Candor, and made such mutual Concessions as we could consistently, and without marring the only Plan, which in our most mature Judgment we can at present offer to you.

THE Interest of the Society is common to all its Members. The great Enquiry is, wherein this Common Interest consists. In determining this Question, an Advantage may arise from a Variety of Sentiments offered to public Examination concerning it. But wise Men are not apt to be obstinately tenacious of their own Opinions: They will always pay a due Regard to those of other Men and keep their minds open to Conviction. We conceive, that in the present instance, by accommodating ourselves to each other, and individually yielding particular and even favorite Opinions of smaller moment, to essential Principles, and Considerations of general Utility, the public Opinion of the Plan now before you may be consolidated.—

But without such mutual Condescension in unimportant Matters, we may almost venture to predict, that we shall not soon, if ever, be bless'd with such a Constitution as those are intitled to, who have struggled hard for Freedom and Independence. You will permit us on this Occasion, just to hint to you our own Apprehension, that there may be amongst us, some Persons disaffected to that great Cause for which we are contending, who may be secretly instructed by our common Enemy to divide and distract us; in hopes of preventing our Union in any Form of Government whatever, and by this Means of depriving us of the most honorable Testimony, as well as the greatest Security of our Freedom and Independence.—If there be such Men, it is our Wisdom to mark them, and guard ourselves against their Designs.

We may not expect to agree in a perfect System of Government: This is not the Lot of Mankind. The great End of Government, is, to promote the Supreme Good of human Society: Every social affection should therefore be interested in the Forming of a Government and in judging of one when it is Formed. Would it not be prudent for Individuals to cast out of the Scale smaller considerations, and fall in with an evident Majority, unless in Matters in which their Consciences shall constrain them to determine otherwise? Such a Sacrifice, made for the sake of Union, would afford a strong Evidence of public Affection; and Union strengthened by the social Feeling, would promise a greater Stability to any Constitution, and, in its operation, a greater Degree of Happiness to the Society. It is here to be remembered, that on the Expiration of Fifteen Years a new Convention may be held, in order that such Amendments may be made in the plan you may now agree to, as Experience, that best Instructor, shall then point out to be expedient or necessary.

A Government without Power to exert itself, is at best, but an useless Piece of Machinery. It is probable, that for the want of Energy, it would speedily lose even the Appearance of Government, and sink into Anarchy. Unless a due Proportion of Weight is given to each of the Powers of Government, there will soon be a Confusion of the whole. An Overbearing of any one of its Parts on the rest, would destroy the Balance and accelerate its Dissolution and Ruin: And, a Power without *any* Restraint is Tyranny. The Powers of Government must then be balanced: To do this accurately requires the highest Skill in political Architecture. Those who are to be invested with the Administration, should have such Powers given to them, as are requisite to render them useful in their respective Places; and such *checks* should be added to every Branch of Power as may be sufficient to prevent its becoming formidable and injurious to the Commonwealth. If we have been so fortunate as to succeed in this point of the greatest Importance, our Happiness will be complete, in the Prospect of having laid a good Foundation for many Generations. *You* are the judges how far we have succeeded; and whether we have raised our Superstructure, agreeably to our professed Design, upon the Principles of a *Free Commonwealth.*

In order to assist your Judgments, we have thought it necessary, briefly to explain to you the Grounds and Reasons upon which we have formed our Plan. In the third article of the Declaration of Rights, we have, with as much Precision as we were capable of, provided for the free exercise of the *Rights of Conscience:* We are very sensible that our Constituents hold those Rights infinitely more valuable than all others; and we flatter ourselves, that while we have considered Morality and the Public Worship of GOD, as important to the happiness of Society, we have sufficiently guarded the rights of Conscience from every possible infringement. This Article underwent long debates, and took Time in proportion to its importance; and we feel ourselves peculiarly happy in being able to inform you, that though the debates were managed by persons of various denominations, it was finally agreed upon with much more Unanimity than usually takes place in disquisitions of this Nature. We wish you to consider the Subject with Candor, and Attention. Surely it would be an affront to the People of Massachusetts-Bay to labour to convince them, that the Honor and Happiness of a People depend upon Morality; and that the Public Worship of GOD has a tendency to inculcate the Principles thereof, as well as to preserve a People from forsaking Civilization, and falling into a state of Savage barbarity.

In the form now presented to you, there are no more Departments of Government than are absolutely necessary for the free and full Exercise of the Powers thereof. The House of Representatives is intended as the Representative of the Persons, and the Senate of the property of the Commonwealth. These are to be annually chosen and to sit in separate Bodies, each having a Negative upon the Acts of [the] other. This Power of a Negative in each must ever be necessary; for all Bodies of Men, assembled upon the same occasion and united by one common Interest of Rank, Honor, or Estate, are liable, like an individual, to mistake, bias and prejudice. These two Houses are vested with the Powers of Legislation, and are to be chosen by the Male Inhabitants who are Twenty one Years of age, and have a Freehold of the small annual Income of Three Pounds, or Sixty Pounds in any Estate. Your Delegates considered that Persons who are Twenty one Years of age, and have no Property, are either those who live upon a part of a Paternal estate, expecting the Fee thereof, who are but just entering into business, or those whose Idleness of Life and profligacy of manners will forever bar them from acquiring and possessing Property. And we will submit it to the former class, whether they would not think it safer for them to have their right of Voting for a Representative suspended for [a] small space of Time, than forever hereafter to have their Privileges liable to the control of Men, who will pay less regard to the Rights of Property because they have nothing to lose.

The Power of Revising, and stating objections to any Bill or Resolve that shall be passed by the two Houses, we were of opinion ought to be lodged

in the hands of some *one* person; not only to preserve the Laws from being unsystematical and inaccurate, but that a due balance may be preserved in the three capital powers of Government. The Legislative, the Judicial and Executive Powers naturally exist in every Government: And the History of the rise and fall of the Empires of the World affords us ample proof, that when the same Man or Body of Men enact, interpret and execute the Laws, property becomes too precarious to be valuable, and a People are finally borne down with the force of corruption resulting from the Union of those Powers. The Governor is emphatically the Representative of the whole People, being chosen not by one Town or County, but by the People at large. We have therefore thought it safest to rest this Power in his hands; and as the Safety of the Commonwealth requires, that there should be one Commander in Chief over the Militia, we have given the Governor that Command for the same reason, that we thought him the only proper Person that could be trusted with the power of revising the Bills and Resolves of the General Assembly; but the People may if they please choose their own Officers.

You will observe that we have resolved, that Representation ought to be founded on the Principle of equality; but it cannot be understood thereby that each Town in the Commonwealth shall have Weight and importance in a just proportion to its Numbers and property. An exact Representation would be unpracticable even in a System of Government arising from the State of Nature, and much more so in a state already divided into nearly three hundred Corporations. But we have agreed that each Town having One hundred and fifty Rateable Polls shall be entitled to send one Member, and to prevent an advantage arising to the greater towns by their numbers, have agreed that no Town shall send two unless it hath three hundred and seventy-five Rateable Polls, and then the still larger Towns are to send one Member for every two hundred and twenty-five Rateable Polls over and above Three hundred and seventy-five. This method of calculation will give a more exact Representation, when applied to all the Towns in the State, than any that we could fix upon.

We have however digressed from this rule in admitting the small Towns now incorporated to send Members. There are but a few of them which will not, from their continual increase, be able to send one upon the above plan in a very little Time. And the few who will never probably have that number have been heretofore in the exercise of this privilege, and will now be very unwilling to relinquish it.

To prevent the governor from abusing the Power which is necessary to be put into his hands, we have provided that he shall have a Council to advise him at all Times and upon all important Occasions, and he with the advice of his Council is to have the Appointment of Civil Officers. This was very readily agreed to by your Delegates, and will undoubtedly be agreeable

to their Constituents; for if those Officers who are to interpret and execute the Laws are to be dependent upon the Election of the people, it must forever keep them under the Control of ambitious, artful and interested men, who can obtain most Votes for them.—If they were to be Appointed by the Two Houses or either of them, the persons appointing them would be too numerous to be accountable for putting weak or wicked Men into Office. Besides the House is designed as the Grand Inquest of the Commonwealth, and are to impeach Officers for malconduct; the Senate are to try the Merits of such impeachments; it would be therefore unfit that they should have the Creation of those Officers which the one may impeach and the other remove: but we conceive there is the greatest propriety in Vesting the Governor with this Power, he being, as we have before observed, the complete representative of all the People, and at all Times liable to be impeached by the House before the Senate for maladministration. And we would here observe that all the Powers which we have given the Governor are necessary to be lodged in the hands of one Man, as the General of the Army and first Magistrate, and none can be entitled to it but he who has the Annual and United Suffrages of the whole Commonwealth.

You will readily conceive it to be necessary for your own Safety, that your Judges should hold their Offices during good behaviour; for Men who hold their places upon so precarious a Tenure as annual or other frequent Appointments will never so assiduously apply themselves to study as will be necessary to the filling their places with dignity. Judges should at all Times feel themselves independent and free.

Your Delegates have further provided that the Supreme Judicial Department, by fixed and ample Salaries, may be enabled to devote themselves wholly to the Duties of their important Office. And for this reason, as well as to keep this Department separate from the others in Government, have excluded them from a Seat in the Legislature; and when our Constituents consider that the final Decision of their Lives and Property must be had in this Court, we conceive they will universally approve the measure. The Judges of Probate, and those other officers whose presence is always necessary in their respective Counties, are also excluded.

We have attended to the inconveniencies suggested to have arisen from having but one Judge of Probate in each County; but the erecting and altering Courts of Justice being a mere matter of Legislation, we have left it with your future Legislature to make such Alterations as the Circumstances of the several Counties may require.

Your Delegates did not conceive themselves to be vested with Power to set up one Denomination of Christians above another; for Religion must at all Times be a matter between GOD and individuals: But we have nevertheless, found ourselves obliged by a Solemn Test, to provide for the exclu-

sion of those from Offices who will not disclaim those Principles of Spiritual Jurisdiction which Roman Catholicks *in some Countries* have held, and which are subversive of a free Government established by the People. We find it necessary to continue the former Laws, and Modes of proceeding in Courts of Justice, until a future Legislature shall alter them: For, unless this is done, the title to Estates will become precarious, Law-suits will be multiplied, and universal Confusion must take place. And least the Commonwealth, for want of a due Administration of Civil Justice, should be involved in Anarchy, we have proposed to continue the present Magistrates and Officers until new Appointments shall take place.

THUS we have, with plainness and sincerity, given you the Reasons upon which we founded the principal parts of the System laid before you, which appeared to us as most necessary to be explained: And we do most humbly beseech the Great Disposer of all Events, that we and our Posterity may be established in, and long enjoy the Blessings of a well-ordered and free Government.

In the Name, and pursuant to a Resolution of the Convention,

JAMES BOWDOIN, *President.*

Attest.

SAMUEL BARRETT, *Secretary.*

NO. IV.

A CONSTITUTION OR FRAME OF GOVERNMENT, Agreed upon by the DELEGATES of the PEOPLE of the STATE OF MASSACHUSETTS-BAY,—*In Convention*,—Begun and held at *Cambridge*, on the First of *September*, 1779, and continued by Adjournments to the Second of *March*, 1780.

PREAMBLE.

THE end of the institution, maintenance and administration of government, is to secure the existence of the body-politic; to protect it; and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life: And whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

THE body-politic is formed by a voluntary association of individuals: It is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a Constitution of Government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.

WE, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new Constitution of Civil Government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, DO agree upon, ordain and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION of the COMMONWEALTH of MASSACHUSETTS.

PART THE FIRST.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

ART. I.—ALL men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II.—IT is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great creator and preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III.—As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of GOD, and of public instructions in piety, religion and morality: Therefore, to promote their happiness and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies-politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily.

AND the people of this Commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

PROVIDED notwithstanding, that the several towns, parishes, precincts, and other bodies-politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all monies paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends: otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said monies are raised.

And every denomination of christians, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the law: And no subordination of any one sect or denomination to another shall ever be established by law.

IV.—The people of this Commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

V.—All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI.—No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII.—Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestible, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

VIII.—In order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

IX.—All elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame

of government, have an equal right to elect officers, and to be elected, for public employments.

X.—Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: But no part of the property of any individual, can, with justice, be taken from him, or applied to public uses without his own consent, or that of the representative body of the people: In fine, the people of this Commonwealth are not controlable by any other laws, than those to which their constitutional representative body have given their consent. And whenever the public exigencies require, that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

XI.—Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII.—No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs, that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate; but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII.—In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV.—Every subject has a right to be secure from all unreasonable searches, and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected

places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

XV.—In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high-seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it.

XVI.—The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this Commonwealth.

XVII.—The people have a right to keep and to bear arms for the common defence. And as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

XVIII.—A Frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government: The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: And they have a right to require of their law-givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

XIX.—The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives; and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

XX.—The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXI.—The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XXII.—The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII,—No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

XXIV.—Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV.—No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI.—No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXVII.—In time of peace no soldier ought to be quartered in any house without the consent of the owner; and in time of war such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII.—No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX.—It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

XXX.—In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

PART THE SECOND.

The Frame of Government.

THE people, inhabiting the territory formerly called the Province of Massachusetts-Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body-politic or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.

The Legislative Power.

SECTION I.

The General Court.

ART. I.—THE department of legislation shall be formed by two branches, *a Senate* and *House of Representatives*: each of which shall have a negative on the other.

THE legislative body shall assemble every year, on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May; and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

II.—No bill or resolve of the Senate or House of Representatives shall become a law, and have force as such, until it shall have been laid before the Governor for his revisal: And if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the Senate or House of Representatives, in which soever the same shall have originated; who shall enter the objections sent down by the Governor, at large, on their records, and proceed to reconsider the said bill or resolve: But if, after such reconsideration, two thirds of the said Senate or House of Representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together

with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two thirds of the members present, shall have the force of a law: But in all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the Commonwealth.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the Governor within five days after it shall have been presented, the same shall have the force of a law.

III.—The General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixt; and for the awarding and making out of execution thereupon: To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

IV.—And further, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this Constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said Commonwealth, the election and constitution of whom are not hereafter in this Form of Government otherwise provided for; and to set forth the several duties, powers and limits, of the several civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this Constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth; and also to impose, and levy reasonable duties and excises, upon any produce, goods, wares, merchandize, and commodities whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the Governor of this Commonwealth for the time being,

with the advice and consent of the Council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth taken anew once in every ten years at least, and as much oftener as the General Court shall order.

CHAPTER I.

SECTION II.

Senate.

Art. 1—There shall be annually elected by the freeholders and other inhabitants of this Commonwealth, qualified as in this Constitution is provided, forty persons to be Counsellors and Senators for the year ensuing their election; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the General Court for that purpose: And the General Court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the Commonwealth, the limits of each district, and the number of Counsellors and Senators to be chosen therein; provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six Senators.

And the several counties in this Commonwealth shall, until the General Court shall determine it necessary to alter the said districts, be districts for the choice of Counsellors and Senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for Counsellors and Senators, viz:

Suffolk	Six	York	Two
Essex	Six	Dukes County and Nantucket	One
Middlesex	Five		
Hampshire	Four	Worcester	Five
Plymouth	Three	Cumberland	One
Barnstable	One	Lincoln	One
Bristol	Three	Berkshire	Two.

II.—The Senate shall be the first branch of the legislature; and the Senators shall be chosen in the following manner, viz: There shall be a meeting on the first Monday in April annually, forever, of the inhabitants of each town in the several counties of this Commonwealth; to be called by the Selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be Senators and Counsellors: And at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the Commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the Senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this State, in that town, district, or plantation, where he dwelleth, or hath his home.

The Selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for Senators, and shall sort and count them in open town meeting, and in presence of the Town Clerk, who shall make a fair record in presence of the Selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the Selectmen and the Town-Clerk, and shall be sealed up, directed to the Secretary of the Commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the Town-Clerk of such towns, to the Sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May annually; or it shall be delivered into the Secretary's office seventeen days at least before the said last Wednesday in May; and the Sheriff of each county shall deliver all such certificates by him received, into the Secretary's office seventeen days before the said last Wednesday in May.

And the inhabitants of plantations unincorporated, qualified as this Constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for Counsellors and Senators, in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation-meetings for that purpose shall be held annually on the same first Monday in April, at such place in the plantations respectively, as the Assessors thereof shall direct; which Assessors shall have like authority for notifying the electors, collecting and returning the votes, as the Selectmen and Town-Clerks have in their several towns, by this Constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the Assessors of an adjacent town, shall have the privilege of giving in their votes for Counsellors and Senators, in the town where they shall be assessed, and be notified of the place of meeting by the Selectmen of the town where they shall be assessed, for that purpose, accordingly.

III.—And that there may be a due convention of Senators on the last Wednesday in May annually, the Governor, with five of the Council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by a majority of voters, to attend on that day, and take their seats accordingly: Provided nevertheless, that for the first year the said returned copies shall be examined by the President and five of the Council of the former Constitution of Government; and the said President shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

IV.—The Senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the Constitution; and shall, on the said last Wednesday in May annually, determine and declare who are elected by each district, to be Senators, by a majority of votes: And in case there shall not appear to be the full number of Senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. The members of the House of Representatives, and such Senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of Senators wanting, if there be so many voted for; and, out of these, shall elect by ballot a number of Senators sufficient to fill up the vacancies in such district: And in this manner all such vacancies shall be filled up in every district of the Commonwealth; and in like manner all vacancies in the Senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be after such vacancies shall happen.

V.—Provided nevertheless, that no person shall be capable of being elected as a Senator, who is not seized in his own right of a freehold within this Commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district, for which he shall be chosen.

VI.—The Senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

VII.—The Senate shall choose its own President, appoint its own officers, and determine its own rules of proceeding.

VIII.—The Senate shall be a court with full authority to hear and determine all impeachments made by the House of Representatives, against any officer or officers of the Commonwealth, for misconduct and mal-adminis-

tration in their offices. But, previous to the trial of every impeachment, the members of the Senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this Commonwealth: But the party, so convicted, shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

IX.—Not less than sixteen members of the Senate shall constitute a quorum for doing business.

CHAPTER I.

SECTION III.

House of Representatives.

Art. I.—There shall be in the Legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

II.—And in order to provide for a representation of the citizens of this Commonwealth, founded upon the principle of equality, every corporate town, containing one hundred and fifty rateable polls, may elect one Representative: Every corporate town, containing three hundred and seventy-five rateable polls, may elect two Representatives: Every corporate town, containing six hundred rateable polls, may elect three Representatives; and proceeding in that manner, making two hundred and twenty-five rateable polls the mean increasing number for every additional Representative.

Provided nevertheless, that each town now incorporated, not having one hundred and fifty rateable polls, may elect one Representative: but no place shall hereafter be incorporated with the privilege of electing a Representative, unless there are within the same one hundred and fifty rateable polls.

And the House of Representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this Constitution.

The expenses of travelling to the General Assembly, and returning home, once in every session, and no more, shall be paid by the government, out of

the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the House, and does not depart without leave.

III.—Every member of the House of Representatives shall be chosen by written votes; and for one year at least next preceding his election shall have been an inhabitant of, and have been seized in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any rateable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.

IV.—Every male person, being twenty-one years of age, and resident in any particular town in this Commonwealth for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a Representative or Representatives for the said town.

V.—The members of the House of Representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.

VI.—The House of Representatives shall be the Grand Inquest of this Commonwealth; and all impeachments made by them shall be heard and tried by the Senate.

VII.—All money-bills shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

VIII.—The House of Representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

IX.—Not less than sixty members of the House of Representatives shall constitute a quorum for doing business.

X.—The House of Representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own Speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house: They shall have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the House, by any disorderly, or contemptuous behaviour, in its presence; or who, in the town where the General Court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the House; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the House, in his way

in going, or returning; or who shall rescue any person arrested by the order of the House.

And no member of the House of Representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending, the General Assembly.

XI.—The Senate shall have the same powers in the like cases; and the Governor and Council shall have the same authority to punish in like cases. Provided, that no imprisonment on the warrant or order of the Governor, Council, Senate, or House of Representatives, for either of the above described offences, be for a term exceeding thirty days.

And the Senate and House of Representatives may try, and determine, all cases where their rights and privileges are concerned, and which, by the Constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

CHAPTER II.

Executive Power.

SECTION I.

Governor.

Art. I.—There shall be a Supreme Executive Magistrate, who shall be styled, THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be—HIS EXCELLENCY.

II.—The Governor shall be chosen annually: And no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding; and unless he shall, at the same time, be seized in his own right, of a freehold within the Commonwealth, of the value of one thousand pounds; and unless he shall declare himself to be of the christian religion.

III.—Those persons who shall be qualified to vote for Senators and Representatives within the several towns of this Commonwealth, shall, at a meeting, to be called for that purpose, on the first Monday of April annually,

give in their votes for a Governor, to the Selectmen, who shall preside at such meetings; and the Town Clerk, in the presence and with the assistance of the Selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the Selectmen, and transmit the same to the Sheriff of the county, thirty days at least before the last Wednesday in May; and the Sheriff shall transmit the same to the Secretary's office seventeen days at least before the said last Wednesday in May; or the Selectmen may cause returns of the same to be made to the office of the Secretary of the Commonwealth seventeen days at least before the said day; and the Secretary shall lay the same before the Senate and the House of Representatives, on the last Wednesday in May, to be by them examined: And in case of an election by a majority of all the votes returned, the choice shall be by them declared and published: But if no person shall have a majority of votes, the House of Representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the Senate of the two persons so elected; on which, the Senate shall proceed, by ballot, to elect one, who shall be declared Governor.

IV.—The Governor shall have authority, from time to time, at his discretion, to assemble and call together the Counsellors of this Commonwealth for the time being; and the Governor, with the said Counsellors, or five of them at least, shall, and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, agreeably to the Constitution and the laws of the land.

V.—The Governor, with advice of Council, shall have full power and authority, during the session of the General Court, to adjourn or prorogue the same to any time the two Houses shall desire; and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said Court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same: And in case of any infectious distemper prevailing in the place where the said Court is next at any time to convene, or any other cause happening whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the State.

And the Governor shall dissolve the said General Court on the day next preceding the last Wednesday in May.

VI.—In cases of disagreement between the two Houses, with regard to the necessity, expediency or time of adjournment, or prorogation, the Gover-

nor, with advice of the Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days, as he shall determine the public good shall require.

VII.—The Governor of this Commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the State, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprizes and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this Commonwealth; and that the Governor be intrusted with all these and other powers, incident to the offices of Captain-General and Commander-in-Chief, and Admiral, to be exercised agreeably to the rules and regulations of the Constitution, and the laws of the land, and not otherwise.

Provided, that the said Governor shall not, at any time hereafter, by virtue of any power by this Constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the State, to which they cannot otherwise conveniently have access.

VIII.—The power of pardoning offences, except such as persons may be convicted of before the Senate by an impeachment of the House, shall be in the Governor, by and with the advice of Council: But no charter of pardon, granted by the Governor, with advice of the Council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence, or offences intended to be pardoned.

IX.—All judicial officers, the Attorney-General, the Solicitor-General, all Sheriffs, Coroners, and Registers of Probate, shall be nominated and appointed by the Governor, by and with the advice and consent of the Council; and every such nomination shall be made by the Governor, and made at least seven days prior to such appointment.

X.—The Captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, of twenty-one years of age and upwards: The field-officers of Regiments shall be elected by the written votes of the captains and subalterns of their respective regiments: The Brigadiers shall be elected in like manner, by the field officers of their respective brigades: And such officers, so elected, shall be commissioned by the Governor, who shall determine their rank.

The Legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the Governor the officers elected.

The Major-Generals shall be appointed by the Senate and House of Representatives, each having a negative upon the other; and be commissioned by the Governor.

And if the electors of Brigadiers, field-officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the Governor, with advice of Council, shall appoint suitable persons to fill such offices.

And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the Governor, or by fair trial in court martial, pursuant to the laws of the Commonwealth for the time being.

The commanding officers of regiments shall appoint their Adjutants and Quarter-masters; the Brigadiers their Brigade-Majors; and the Major-Generals their Aids: and the Governor shall appoint the Adjutant General.

The Governor, with advice of Council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this Commonwealth shall appoint,—as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this Commonwealth, until the same shall be altered in pursuance of some future law.

XI.—No monies shall be issued out of the treasury of this Commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or Treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the Governor for the time being, with the advice and consent of the Council, for the necessary defence and support of the Commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

XII.—All public boards, the Commissary-General, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the Governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the said commanding officer shall exhibit to the Governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or harbours adjacent.

And the said boards, and all public officers, shall communicate to the Governor, as soon as may be after receiving the same, all letters, dispatches, and intelligences of a public nature, which shall be directed to them respectively.

XIII.—As the public good requires that the Governor should not be under the undue influence of any of the members of the General Court, by a dependence on them for his support—that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and that he should maintain the dignity of the Commonwealth in the character of its chief magistrate—it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: And it shall be among the first acts of the General Court, after the Commencement of this Constitution, to establish such salary by law accordingly.

Permanent and honorable salaries shall also be established by law for the Justices of the Supreme Judicial Court.

And if it shall he found, that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the General Court shall judge proper.

CHAPTER II.

SECTION II.

Lieutenant-Governor.

Art. I.—There shall be annually elected a Lieutenant-Governor of the Commonwealth of Massachusetts, whose title shall be HIS HONOR—and

who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the Governor: And the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner: And if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to be elected, in case no one person shall have a majority of the votes of the people to be Governor.

II.—The Governor, and in his absence the Lieutenant-Governor, shall be President of the Council, but shall have no vote in Council: And the Lieutenant-Governor shall always be a member of the Council, except when the chair of the Governor shall be vacant.

III.—Whenever the chair of the Governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the Lieutenant-Governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the Governor, and shall have and exercise all the powers and authorities, which by this Constitution the Governor is vested with, when personally present.

CHAPTER II.

SECTION III.

Council, and the Manner of Settling Elections by the Legislature.

Art. I.—There shall be a Council for advising the Governor in the executive part of government, to consist of nine persons besides the Lieutenant-Governor, whom the Governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

II.—Nine Counsellors shall be annually chosen from among the persons returned for Counsellors and Senators, on the last Wednesday in May, by the joint ballot of the Senators and Representatives assembled in one room: And in case there shall not be found, upon the first choice, the whole num-

ber of nine persons who will accept a seat in the Council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of Senators left shall constitute the Senate for the year. The seats of the persons thus elected from the Senate, and accepting the trust, shall be vacated in the Senate.

III.—The Counsellors, in the civil arrangements of the Commonwealth, shall have rank next after the Lieutenant-Governor.

IV.—Not more than two Counsellors shall be chosen out of any one district of this Commonwealth.

V.—The resolutions and advice of the Council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either House of the Legislature; and any member of the Council may insert his opinion contrary to the resolution of the majority.

VI.—Whenever the office of the Governor and Lieutenant-Governor shall be vacant, by reason of death, absence, or otherwise, then the Council or the major part of them, shall, during such vacancy, have full power and authority, to do, and execute, all and every such acts, matters and things, as the Governor or the Lieutenant-Governor might or could, by virtue of this Constitution, do or execute, if they, or either of them, were personally present.

VII.—And whereas the elections appointed to be made by this Constitution, on the last Wednesday in May annually, by the two Houses of the Legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows; the vacancies in the Senate, if any, shall first be filled up; the Governor and Lieutenant-Governor shall then be elected, provided there should be no choice of them by the people: And afterwards the two Houses shall proceed to the election of the Council.

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, &c.

Art. I.—The Secretary, Treasurer and Receiver-General, and the Commissary-General, Notaries-Public, and Naval-Officers, shall be chosen annu-

ally, by joint ballot of the Senators and Representatives in one room. And that the citizens of this Commonwealth may be assured, from time to time, that the monies remaining in the public Treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as Treasurer and Receiver-General more than five years successively.

II.—The records of the Commonwealth shall be kept in the office of the Secretary, who may appoint his Deputies, for whose conduct he shall be accountable, and he shall attend the Governor and Council, the Senate and House of Representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

Judiciary Power.

Art. I.—The tenure that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behaviour, excepting such concerning whom there is different provision made in this Constitution: Provided, nevertheless, the Governor, with consent of the Council, may remove them upon the address of both Houses of the Legislature.

II.—Each branch of the Legislature, as well as the Governor and Council, shall have authority to require the opinions of the Justices of the Supreme Judicial Court, upon important questions of law, and upon solemn occasions.

III.—In order that the people may not suffer from the long continuance in place of any Justice of the Peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of Justices of the Peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the Commonwealth.

IV.—The Judges of Probate of Wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require. And the Legislature shall, from time to time, hereafter appoint such times and places; until which appoint-

ments, the said Courts shall be holden at the times and places which the respective Judges shall direct.

V.—All causes of marriage, divorce and alimony, and all appeals from the Judges of Probate, shall be heard and determined by the Governor and Council until the Legislature shall, by law, make other provision.

CHAPTER IV.

Delegates to Congress.

The delegates of this Commonwealth to the Congress of the United States, shall, sometime in the month of June annually, be elected by the joint ballot of the Senate and House of Representatives, assembled together in one room; to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the Governor, and the great seal of the Commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

CHAPTER V.

The University at Cambridge, and Encouragement of Literature, &c.

SECTION I.

The University.

Art. I.—Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty six, laid the foundation of Harvard-College, in which University many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences, which qualified them for public employments, both in Church and State: And whereas the encouragement of Arts and Sciences, and all good literature, tends to the honor of

GOD, the advantage of the christian religion, and the great benefit of this, and the other United States of America—It is declared, That the PRESIDENT AND FELLOWS OF HARVARD-COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy: And the same are hereby ratified and confirmed unto them, the said President and Fellows of Harvard-College, and to their successors, and to their officers and servants, respectively, forever.

II.—AND whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard-College in Cambridge, in New-England, or to the President and Fellows of Harvard-College, or to the said College, by some other description, under several charters successively: IT IS DECLARED, That all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the President and Fellows of Harvard-College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

III.—AND whereas by an act of the General Court of the Colony of Massachusetts-Bay, passed in the year one thousand six hundred and forty-two, the Governor and Deputy-Governor, for the time being, and all the magistrates of that jurisdiction, were, with the President, and a number of the clergy in the said act described, constituted the Overseers of Harvard-College: And it being necessary, in this new Constitution of Government, to ascertain who shall be deemed successors to the said Governor, Deputy-Governor and Magistrates: IT IS DECLARED, That the Governor, Lieutenant-Governor, Council and Senate of this Commonwealth, are, and shall be deemed, their successors; who, with the President of Harvard-College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the Overseers of Harvard-College; PROVIDED, that nothing herein shall be construed to prevent the Legislature of this Commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the Legislature of the late Province of the Massachusetts-Bay.

CHAPTER V.

SECTION II.

The Encouragement of Literature, &c.

WISDOM, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislators and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humour, and all social affections, and generous sentiments among the people.

CHAPTER VI.

Oaths and Subscriptions; Incompatibility of and Exclusion from Offices; Pecuniary Qualifications; Commissions; Writs; Confirmation of Laws; Habeas Corpus; The Enacting Style; Continuance of Officers; Provision for a future Revisal of the Constitution, &c.

ART. I.—ANY person chosen Governor, Lieutenant-Governor, Counsellor, Senator, or Representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.—

"I, A. B. do declare, that I believe the christian religion, and have a firm persuasion of its truth; and that I am seized and possessed, in my own right,

of the property required by the Constitution as one qualification for the office or place to which I am elected."

And the Governor, Lieutenant-Governor, and Counsellors, shall make and subscribe the said declaration, in the presence of the two Houses of Assembly; and the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution, and, forever afterwards, before the Governor and Council for the time being.

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.—

"I, A. B. do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign and independent State; and I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever: And that I do renounce and abjure all allegiance, subjection and obedience to the King, Queen or Government of Great Britain, (as the case may be) and every other foreign power whatsoever: And that no foreign Prince, Person, Prelate, State or Potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth; except the authority and power which is or may be vested by their Constituents in the Congress of the United States: And I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me GOD."

"I, A. B. do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as ; according to the best of my abilities and understanding, agreeably to the rules and regulations of the Constitution, and the laws of this Commonwealth." "So help me GOD."

Provided always, that when any person, chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration,*" in the first oath; and in the second oath, the words "*swear and ;*" and in each of them the words "*So help me* GOD;" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

And the said oaths or affirmations shall be taken and subscribed by the

Governor, Lieutenant Governor, and Counsellors, before the President of the Senate, in the presence of the two Houses of Assembly; and by the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution; and forever afterwards before the Governor and Council for the time being: And by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the Legislature.

II.—No Governor, Lieutenant Governor, or Judge of the Supreme Judicial Court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this Constitution they are admitted to hold, saving that the Judges of the said Court may hold the offices of Justices of the Peace through the State; nor shall they hold any other place or office, or receive any pension or salary from any other State or Government or Power whatever.

No person shall be capable of holding or exercising at the same time, within this State, more than one of the following offices, viz:—Judge of Probate—Sheriff—Register of Probate—or Register of Deeds—and never more than any two offices which are to be held by appointment of the Governor, or the Governor and Council, or the Senate, or the House of Representatives, or by the election of the people of the State at large, or of the people of any county, military offices and the offices of Justices of the Peace excepted, shall be held by one person.

No person holding the office of Judge of the Supreme Judicial Court—Secretary—Attorney General—Solicitor General—Treasurer or Receiver General—Judge of Probate—Commissary General—President, Professor, or Instructor of Harvard College—Sheriff—Clerk of the House of Representatives—Register of Probate—Register of Deeds—Clerk of the Supreme Judicial Court—Clerk of the Inferior Court of Common Pleas—or Officer of the Customs, including in this description Naval Officers—shall at the same time have a seat in the Senate or House of Representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the Senate or House of Representatives; and the place so vacated shall be filled up.

And the same rule shall take place in case any judge of the said Supreme Judicial Court, or Judge of Probate, shall accept a seat in Council; or any Counsellor shall accept of either of those offices or places.

And no person shall ever be admitted to hold a seat in the Legislature, or any office of trust or importance under the Government of this Commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

III.—In all cases where sums of money are mentioned in this Constitution, the value thereof shall be computed in silver at six shillings and eight pence per ounce: And it shall be in the power of the Legislature from time to time to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the Commonwealth shall require.

IV.—All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the Governor, and attested by the Secretary or his Deputy, and have the great seal of the Commonwealth affixed thereto.

V.—All writs, issuing out of the clerk's office in any of the Courts of law, shall be in the name of the Commonwealth of Massachusetts: They shall be under the seal of the Court from whence they issue: They shall bear test of the first Justice of the Court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

VI.—All the laws which have heretofore been adopted, used and approved in the Province, Colony or State of Massachusetts Bay, and usually practiced on in the Courts of law, shall still remain and be in full force, until altered or repealed by the Legislature; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution.

VII.—The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Commonwealth in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time not exceeding twelve months.

VIII.—The enacting style, in making and passing all acts, statutes and laws, shall be—"Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same."

IX.—To the end there may be no failure of justice or danger arise to the Commonwealth from a change of the Form of Government—all officers, civil and military, holding commissions under the government and people of Massachusetts Bay in New-England, and all other officers of the said government and people, at the time this Constitution shall take effect, shall have, hold, use, exercise and enjoy all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; And all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority; until the General Court and the supreme and executive officers under this Constitution are designated and invested with their respective trusts, powers and authority.

X.—In order the more effectually to adhere to the principles of the Constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary—the General Court, which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the Se-

lectmen of the several towns, and to the Assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations for the purpose of collecting their sentiments on the necessity or expediency of revising the Constitution, in order to amendments.

And if it shall appear by the returns made, that two thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the General Court shall issue precepts, or direct them to be issued from the Secretary's office to the several towns, to elect Delegates to meet in Convention for the purpose aforesaid.

The said Delegates to be chosen in the same manner and proportion as their Representatives in the second branch of the Legislature are by this Constitution to be chosen.

XI.—This form of government shall be enrolled on parchment, and deposited in the Secretary's office, and be a part of the laws of the land—and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

JAMES BOWDOIN, *President.*

Attest. SAMUEL BARRETT, *Secretary.*

ARTICLES OF AMENDMENT OF THE CONSTITUTION, submitted by *Delegates in Convention assembled*, November 15, 1820, to the People; and by them ratified and adopted April 9, 1821, certified by a Committee of the Convention, May 24, 1821, and presented to the General Court, May 30, 1821.

"ART. 1.—If any bill or resolve shall be objected to, and not approved by the Governor; and if the General Court shall adjourn within five days after the same shall have been laid before the Governor for his approbation, and thereby prevent his returning it, with his objections, as provided by the Constitution; such bill or resolve shall not become a law, nor have force as such.

ART. 2.—The General Court shall have full power and authority to erect and constitute municipal or city governments in any corporate town or towns in this Commonwealth, and to grant to the inhabitants thereof such powers, privileges and immunities, not repugnant to the Constitution, as the General Court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants in wards, or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings: Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants; nor unless it be with the consent and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose: And provided also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the General Court.

ART. 3.—Every male citizen of twenty-one years of age and upwards, (excepting paupers and persons under guardianship,) who shall have resided within the Commonwealth one year, and within the town or district, in which he may claim a right to vote, six calendar months next preceding any election of Governor, Lieutenant Governor, Senators, or Representatives, and who shall have paid, by himself or his parent, master or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district, of this Commonwealth; and also every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall

have a right to vote in such election of Governor, Lieutenant Governor, Senators and Representatives; and no other person shall be entitled to vote in such elections.

ART. 4.—Notaries Public shall be appointed by the Governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the Governor, with the consent of the Council, upon the address of both Houses of the Legislature.

In case the office of Secretary or Treasurer of the Commonwealth shall become vacant from any cause, during the recess of the General Court, the Governor, with the advice and consent of the Council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the General Court.

Whenever the exigencies of the Commonwealth shall require the appointment of a Commissary General, he shall be nominated, appointed and commissioned, in such manner as the Legislature may, by law, prescribe.

All officers commissioned to command in the Militia, may be removed from office in such manner as the Legislature may, by law, prescribe.

ART. 5.—In the elections of Captains and Subalterns of the Militia, all the members of their respective companies, as well those under, as those above the age of twenty-one years, shall have a right to vote.

ART. 6.—Instead of the oath of allegiance prescribed by the Constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the Government of this Commonwealth, before he shall enter on the duties of his office, to wit:

"I, A. B. do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the Constitution thereof. So help me God."

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word "swear," and inserting, instead thereof, the word "affirm," and omitting the words "so help me God," and subjoining, instead thereof, the words "this I do under the pains and penalties of perjury."

ART. 7.—No oath, declaration or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the Governor, Lieutenant Governor, Counsellors, Senators or Representatives, to qualify them to perform the duties of their respective offices.

ART. 8.—No judge of any Court of this Commonwealth, (except the Court of Sessions,) and no person holding any office under the authority of

the United States, (Postmasters excepted,) shall, at the same time, hold the office of Governor, Lieutenant Governor or Counsellor, or have a seat in the Senate or House of Representatives of this Commonwealth; and no Judge of any Court in this Commonwealth, (except the Court of Sessions,) nor the Attorney General, Solicitor General, County Attorney, Clerk of any Court, Sheriff, Treasurer and Receiver General, Register of Probate, nor Register of Deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and Judges of the Courts of Common Pleas shall hold no other office under the government of this Commonwealth, the office of Justice of the Peace and Militia Offices excepted.

ART. 9.—If, at any time hereafter, any specific and particular amendment or amendments to the Constitution, be proposed in the General Court, and agreed to by a majority of the Senators and two thirds of the Members of the House of Representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two Houses, with the yeas and nays taken thereon, and referred to the General Court then next to be chosen, and shall be published; and if in the General Court next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the Senators and two thirds of the Members of the House of Representatives present and voting thereon; then it shall be the duty of the General Court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the Constitution of this Commonwealth."

TENTH ARTICLE OF AMENDMENT OF THE CONSTITUTION OF MASSACHUSETTS—Adopted by the Legislature of the political year 1829–30, and by the Legislature of the political year 1830–31, agreeably to the provisions of the Constitution, and ratified by the People, May 11th, 1831.

ARTICLE OF AMENDMENT.

"The political year shall begin on the first Wednesday of January instead of the last Wednesday of May, and the General Court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the

Constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the General Court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the Governor. But nothing herein contained shall prevent the General Court from assembling at such other times as they shall judge necessary, or when called together by the Governor. The Governor, Lieutenant Governor, and Counsellors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

The meeting for the choice of Governor, Lieutenant Governor, Senators and Representatives, shall be held on the second Monday of November in every year, but meetings may be adjourned, if necessary, for the choice of Representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of Representatives, such meetings shall be held on the fourth Monday of the same month of November.

"All the other provisions of the Constitution, respecting the elections and proceedings of the members of the General Court, or of any other officers or persons whatever, that have reference to the last Wednesday of May as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

"This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the Constitution, and the Governor, Lieutenant Governor, Counsellors, Senators, Representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the Governor, Lieutenant Governor, Senators and Representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of Novem ber following the day on which the same shall be in force and go into operation, pursuant to the foregoing provision.

"ALL the provisions of the existing Constitution, inconsistent with the provisions herein contained, are hereby wholly annulled."

Commonwealth of Massachusetts.

SECRETARY'S OFFICE, AUGUST 30, 1832.

I CERTIFY, that I have compared the Copy of the Form of Government agreed upon by the Convention of 1780, as here printed, with the Constitution as finally ratified, engrossed on parchment, and deposited in the Public Archives, and find that it exactly corresponds therewith. I have also compared the foregoing printed copies of the several Amendments to the Constitution, with the originals as engrossed, and deposited in the Public Archives, and certify that the same are true copies.

EDWARD D. BANGS,

Secretary of the Commonwealth.

NO. V.

REJECTED CONSTITUTION OF 1778.

[*The following Document, it is thought, will form an appropriate and interesting portion of this Volume, and is accordingly appended, by the advice of several Members of the Legislature. It is the Form of Government proposed by the General Court of* 1777–78, *acting as a Convention. Being submitted to the People, at Meetings held throughout the State previous to June* 15, 1778, *it was, by a large majority,* REJECTED. *Measures were soon afterwards taken for assembling another Convention, distinct from the Legislative Body; the result of which was the adoption of the present Constitution.*]

A CONSTITUTION AND FORM OF GOVERNMENT for the *State of Massachusetts Bay*, agreed upon by the Convention of said State, February 28, 1778—to be laid before the several towns and plantations in said State, for their approbation or disapprobation.

State of Massachusetts Bay.

IN CONVENTION, FEBRUARY 28, 1778.

WHEREAS, upon the Declaration of Independence, made by the Representatives of the United States, in Congress assembled, by which all connexions between the said States and Great Britain were dissolved, the General Assembly of this State thought it expedient, that a new Constitution of Government for this State should be formed; and, apprehending that they were not invested with sufficient authority to deliberate and determine upon so interesting a subject, did, on the fifth day of May, 1777, for effecting this valuable purpose, pass the following resolve:

"RESOLVED, That it be, and hereby is recommended to the several towns and places in this State, empowered by the laws thereof to send members to the General Assembly, that, at their next election of a member or members to represent them, they make choice of men, in whose integrity and ability they can place the greatest confidence; and, in addition to the common and ordinary powers of representation, instruct them with full powers,

in one body with the Council, to form such a Constitution of Government as they shall judge best calculated to promote the happiness of this State; and, when completed, to cause the same to be printed in all the Boston newspapers, and also in handbills, one of which to be transmitted to the Selectmen of each town, or the committee of each plantation, to be by them laid before their respective towns or plantations, at a regular meeting of the inhabitants thereof, to be called for that purpose, in order to its being, by each town and plantation, duly considered, and a return of their approbation or disapprobation to be made into the Secretary's office of this State, at a reasonablebe time, to fixed upon by the General Court; specifying the numbers present at such meeting voting for, and those voting against the same; and, if upon a fair examination of said returns by the General Court, or such a committee as they shall appoint for that purpose, it shall appear, that the said Form of Government is approved of by at least two thirds of those who are free, and twenty-one years of age, belonging to this State, and present in the several meetings, then the General Court shall be empowered to establish the same as the Constitution and Form of Government of the State of Massachusetts Bay; according to which the inhabitants thereof shall be governed in all succeeding generations, unless the same shall be altered by their express direction, or at least of two thirds of them. And it is further recommended to the Selectmen of the several towns, in the return of their precepts for the choice of Representatives, to signify their having considered this resolve, and their doings thereon."

And whereas the good People of this State in pursuance of the said resolution, and reposing special trust and confidence in the Council and in their Representatives, have appointed, authorized and instructed their Representatives, in one body with the Council, to form such a Constitution of Government as they shall judge best calculated to promote the happiness of this State, and when completed, to cause the same to be published for their inspection and consideration.

We, therefore, the Council and Representatives of the People of the State of Massachusetts Bay, in Convention assembled, by virtue of the power delegated to us, and acknowledging our dependence upon the all wise Governor of the Universe for direction, do agree upon the following Form of a Constitution of Government for this State, to be sent out to the People, that they may act thereon, agreeably to the aforesaid resolve.

I.—There shall be convened, held and kept, a General Court, upon the last Wednesday in the month of May of every year, and as many other times as the said General Court shall order and appoint: which General Court shall consist of a Senate and House of Representatives, to be elected as this Constitution hereafter directs.

II.—There shall be elected annually a Governor and Lieutenant Governor, who shall each have, by virtue of such election, a seat and voice in the

Senate; and the style and title of the Governor shall be His Excellency; and the style and title of the Lieutenant Governor shall be his Honor.

III.—No person shall be considered as qualified to serve as Governor, Lieutenant Governor, Senator or Representative, unless qualified respectively at the time of their several elections, as follows, viz: The Governor and Lieutenant Governor shall have been inhabitants of this State five years immediately preceding the time of their respective election; the Governor shall be possessed, in his own right, of an estate of the value of one thousand pounds, whereof five hundred pounds value, at the least, shall be in real estate within this State; the Lieutenant Governor shall be possessed, in his own right, of an estate of the value of five hundred pounds, two hundred and fifty pounds thereof, at the least, to be in real estate, within this State: a Senator shall be possessed, in his own right, of an estate to the value of four hundred pounds, two hundred pounds thereof, at the least, to be in real estate, lying in the district for which he shall be elected. A Representative shall be possessed, in his own right, of an estate of the value of two hundred pounds, one hundred pounds thereof, at the least, to be in real estate lying in the town, for which he shall be elected. Senators and Representatives shall have been inhabitants of districts and towns, for which they shall be respectively elected, one full year immediately preceding such election; provided, that when two or more towns join in the choice of a Representative, they may choose an inhabitant of either of said towns, being otherwise qualified as this article directs.

IV.—The Judges of the Superior Court, Secretary, Treasurer General, Commissary General, and settled Ministers of the Gospel, while in office; also all Military Officers, while in the pay of this or of the United States, shall be considered as disqualified for holding a seat in the General Court; and the Judges and Registers of Probate, for holding a seat in the Senate.

V.—Every male inhabitant of any town in this State, being free and twenty one years of age, excepting negroes, Indians and mulattoes, shall be entitled to vote for a Representative or Representatives, as the case may be, in the town, where he is resident; provided he has paid taxes in said town (unless by law excused from taxes) and been resident therein one full year, immediately preceding such voting, or that such town has been his known and usual place of abode for that time, or that he is considered as an inhabitant thereof; and every such inhabitant qualified as above, and worth sixty pounds, clear of all charges thereon, shall be entitled to put in his vote for Governor, Lieutenant Governor and Senators; and all such voting for Governor, Lieutenant Governor, Senators or Representatives, shall be by ballot, and not otherwise.

VI.—Every incorporated town within this State shall be entitled to send

one Representative to the General Court; any town having three hundred voters may send two; having five hundred and twenty voters may send three; having seven hundred and sixty may send four; and so on, making the increasing number necessary for another number, twenty more than the last immediately preceding increasing number, till the whole number of voters in any town are reckoned. And each town shall pay the expense of its own Representative or Representatives; and the inhabitants of any two or more towns, who do not incline to send a Representative for each town, may join in the choice of one, if they shall so agree.

VII.—The Selectmen of each town shall some time in the month of April, annually, issue their warrant or warrants, under their hands and seals, directed to some constable or constables, within their towns respectively, requiring him or them to notify the inhabitants qualified to vote for a Representative, to assemble in some convenient place in such town, for the choice of some person or persons, as the case may be, to represent them in the General Court the ensuing year: the time and place of meeting to be mentioned in the warrant or warrants for calling such meeting.

And the Selectmen of each town respectively, or the major part of them, shall make return of the name or names of the person or persons elected by the major part of the voters present, and voting in such meeting, to represent said town in the General Court the ensuing year, into the Secretary's office, on or before the last Wednesday of May then next ensuing; and when two or more towns shall agree to join for such choice, the major part of the Selectmen of those towns shall, in the manner above directed, warn a meeting to be held in either of the said towns, as they shall judge most convenient for that purpose, and shall make return as aforesaid, of the person chosen at such meeting.

VIII.—The number of Senators shall be *twenty eight;* (exclusive of the Governor and Lieutenant Governor) their election shall be annual, and from certain districts, into which the State shall be divided as follows, viz: The middle district to contain the counties of Suffolk, Essex and Middlesex, within which ten Senators shall be elected: the southern district to contain the counties of Plymouth, Barnstable, Bristol, Dukes' County and Nantucket, within which six Senators shall be elected: the western district to contain the counties of Hampshire, Worcester and Berkshire, within which eight Senators shall be elected: the northern district to contain the counties of York and Cumberland, within which three shall be elected: the eastern district to contain the county of Lincoln, within which one shall be elected. And as the numbers of inhabitants in the several districts may vary, from time to time, the General Court shall, in the way they shall judge best, some time in the year one thousand seven hundred and ninety, and once in twenty years ever after, order the number of the inhabitants of the several districts to be taken, that the Senators may be apportioned anew to the several districts, ac-

cording to the numbers of the inhabitants therein. And the General Court may, at such new apportionment, increase the number of Senators to be chosen as they may see fit; provided that the whole number shall never exceed thirty six, exclusive of the Governor and Lieutenant Governor.

IX.—The inhabitants of the several towns in this State, qualified as this Constitution directs, shall, on the first Wednesday in the month of November, annually, give in their votes in their respective towns, at a meeting, which the Selectmen shall call for that purpose, for Senators for the year ensuing the last Wednesday in May then next. The votes shall be given in for the members of each district separately, according to the foregoing apportionment, or such as shall be hereafter ordered; and the Selectmen and town Clerk of each town shall sort and count the votes, and, by the third Wednesday in December then next, transmit to the Secretary's office a list, certified by the town clerk, of all the persons, who had votes as Senators for each district at such meeting, and the number each person had affixed to his name. The lists, so sent in, shall be examined by the General Court at their then next sitting, and a list for each district of those voted for, to the amount of double the number assigned such district (if so many shall have votes) taking those who had the highest numbers, shall be made out and sent by the first of March, then next after, to the several towns of this State, as a nomination list, from which said towns shall, at their meetings for the choice of Governor in the month of May, vote for the Senators assigned the respective districts; which votes shall be counted and sorted and lists certified as before directed, made out and sent in to the Secretary's office, by ten o'clock in the forenoon of the last Wednesday in said May, and not afterwards; which lists shall be examined by the House of Representatives for the first time of the election of Senators, and ever afterwards by the Senate and House of Representatives on said last Wednesday of May, or as soon after as may be; and those persons in each district, equal to the number assigned such district, who have the greatest number of votes, shall be Senators for the ensuing year, unless it shall appear to the Senate that any member or members thereof were unduly elected or not legally qualified; of which the Senate shall be the judges. And the Senate, when so constituted, shall continue in being till another Senate is chosen, and the members thereof gone through all the steps necessary to qualify them to enter on the business assigned them by this Constitution.

X.—There shall forever hereafter, on the first Wednesday in the month of May annually, be held, in each town in this State, a meeting of the inhabitants of such towns respectively, to give or put in their votes for Governor, Lieutenant Governor and Senators, which meeting the Selectmen shall cause to be notified in the manner before directed for the meeting for the choice of Representatives: and the town clerk shall return into the Secretary's office by ten o'clock in the morning of the last Wednesday of said May, and not

afterwards, an attested copy of all the persons, who had votes for Governor and Lieutenant Governor respectively, certifying the number of votes each person so voted for had; which lists shall be, on said last Wednesday of May, or as soon after as may be, examined by the Senate and House of Representatives; and the persons, who, on such examination, shall appear to have the greatest number of votes for those offices respectively, provided it be a majority of the whole number, shall be by the two Houses declared Governor and Lieutenant Governor, and entitled to act as such the ensuing year: and if no person shall have such majority for Governor and for Lieutenant Governor, the Senate and House of Representatives shall, as soon as may be, after examining said lists, proceed by joint ballot to elect a Governor or Lieutenant Governor, or both, as the case may require, confining themselves to one of those three, who had the greatest number of votes collected in the several towns for the office to be filled.

XI.—If any person chosen Governor, Lieutenant Governor, Senator or Representative, whose qualification shall be questioned by any one member of the Senate or House of Representatives, within twenty four days after his appearing to enter upon the execution of his office, shall not make oath before a Senator, the Speaker of the House of Representatives, or some Justice of the Peace, that he is qualified as required by this constitution, and lodge a certificate thereof in the Secretary's office, within ten days after notice given him of such questioning by the Secretary, whose duty it shall be to give such notice, his election shall be void; and any person claiming privilege of voting for Governor, Lieutenant Governor, Senators or Representatives, and whose qualifications shall be questioned in town meeting, shall by the Selectmen be prevented from voting, unless he shall make oath that he is qualified as this Constitution requires; said oath to be administered by a Justice of the Peace, or the town clerk, who is hereby empowered to administer the same, when no Justice is present.

XII.—Whenever any person, who may be chosen a member of the Senate, shall decline the office, to which he is elected, or shall resign his place, or die, or remove out of the State, or be any way disqualified, the House of Representatives may, if they see fit, by ballot, fill up any vacancy occasioned thereby, confining themselves in the choice to the nomination list for the district, to which such member belonged, whose place is to be supplied, if a sufficient number is thereon for the purpose; otherwise the choice may be made at large in said district.

XIII.—The General Court shall be the supreme legislative authority of this State, and shall accordingly have full power and authority to erect and constitute judicatories and courts of record, or other courts; and, from time to time, to make and establish all manner of wholesome and reasonable orders, laws and statutes; and also, for the necessary support and defence of

this government, they shall have full power and authority to levy proportionable and reasonable assessments, rates and taxes; and to do all and every thing they shall judge to be for the good and welfare of the State, and for the government and ordering thereof; provided nevertheless, they shall not have any power to add to, alter, abolish, or infringe any part of this constitution. And the enacting style in making laws shall be "by the Senate and House of Representatives in General Court assembled and by the authority of the same."

XIV.—The Senate and House of Representatives shall be two separate and distinct bodies, each to appoint its own officers, and settle its own rules of proceedings; and each shall have an equal right to originate or reject any bill, resolve or order, or to propose amendments to the same, excepting bills and resolves levying and granting money or other property of the State, which shall originate in the House of Representatives only, and be concurred or nonconcurred in whole by the Senate.

XV.—Not less than sixty members shall constitute or make a quorum of the House of Representatives; and not less than nine shall make a quorum of the Senate.

XVI.—The Senate and House of Representatives shall have power to adjourn themselves respectively; provided such adjournment shall not exceed two days at any one time.

XVII.—The Governor shall be President of the Senate. He shall be General and Commander in Chief of the Militia, and Admiral of the Navy of this State; and empowered to embody the militia and cause them to be marched to any part of the State for the public safety, when he shall think necessary; and in the recess of the General Court, to march the militia, by advice of the Senate, out of the State, for the defence of this, or any other of the United States; provided always, that the Governor shall exercise the power given by this constitution, over the militia and navy of the State, according to the laws thereof, or the resolves of the General Court. He shall, with the advice of the Senate, in the recess of the General Court, have power to prorogue the same from time to time, not exceeding forty days in any one recess of said Court: and, in the sitting of said Court, to adjourn or prorogue the said Court to any time they shall desire, or to dissolve the same at their request, or to call said Court together sooner than the time to which it may be adjourned or prorogued, if the welfare of the State should require the same. He shall have power, at his discretion, to grant reprieves to condemned criminals for a term or terms of time, not exceeding six months. It shall be the duty of the Governor to inform the legislature, at every session of the General Court, of the condition of the State; and, from time to time, to recommend such matters to their consideration, as shall appear to him to concern its good government, welfare and prosperity.

XVIII.—Whenever the person, who may be chosen Governor, shall decline the trust to which he is thereby elected, or shall resign or die, or remove out of the State, or be otherwise disqualified, the Lieutenant Governor shall have the like power during the vacancy in the office of Governor, as the Governor is by this Constitution vested with; and, in case of a vacancy in the office of Governor and Lieutenant Governor, the major part of the Senate shall have authority to exercise all the powers of a Governor during such vacancy; and, in case both the Governor and the Lieutenant Governor be absent from the Senate, the senior or first Senator then present shall preside.

XIX.—All civil officers annually chosen, with salaries annually granted for their services, shall be appointed by the General Court by ballot; each branch to have a right to originate or negative the choice. All other civil officers, and also all general, field and staff officers, both of the militia and of the troops which may be raised by, and be in the pay of this State, shall be appointed by the Governor and Senate; captains and subalterns of troops raised by, and in the pay of the State, to be also appointed by the Governor and Senate.

XX.—The Governor and Senate shall be a Court for the trial of all impeachments of any officers of this State, provided, that if any impeachment shall be prosecuted against the Governor, Lieutenant Governor, or any one of the Senate; in such case, the person impeached shall not continue one of the Court for that trial. Previous to the trial of any impeachment, the members of the court shall be respectively sworn, truly and impartially to try and determine the charge in question, according to evidence; which oath shall be administered to the members by the President, and to him by any one of the Senate. And no judgment of said Court shall be valid, unless it be assented to by two thirds of the members of said Court present at such trial; nor shall judgment extend further than to removal of the person tried from office, and disqualification to hold or enjoy any place of honor, trust or profit under the State: the party so convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to the laws of the State: and the power of impeaching all officers of the State for mal-conduct in their respective offices shall be vested in the House of Representatives.

XXI.—The Governor may with the advice of the Senate, in the recess of the General Court, lay an embargo, or prohibit the exportation of any commodity for any term of time, not exceeding forty days in any one recess of said Court.

XXII.—The Governor shall have no negative, as Governor, in any matter pointed out by this Constitution to be done by the Governor and Senate,

but shall have an equal voice with any Senator on any question before them; provided that the Governor, or, in his absence out of the State, the Lieutenant Governor, shall be present in Senate to enable them to proceed on the business assigned them by this Constitution, as Governor and Senate.

XXIII.—The power of granting pardons shall be vested in the Governor, Lieutenant Governor and Speaker of the House of Representatives, for the time being, or in either two of them.

XXIV.—The Justices of the Superior Court, the Justices of the Inferior Courts of Common Pleas, Judges of Probate of Wills, Judges of the Maritime Courts, and Justices of the Peace, shall hold their respective places during good behavior.

XXV.—The Secretary, Treasurer General, and Commissary General, shall be appointed annually.

XXVI.—The Attorney-General, Sheriffs, Registers of the Courts of Probate, Coroners, Notaries Public, and Naval Officers, shall be appointed and hold their offices during pleasure.

XXVII.—The Justices of the Superior Court, Justices of the Inferior Courts, Courts of the General Sessions of the Peace, and Judges of the Maritime Courts, shall appoint their respective Clerks.

XXVIII.—The Delegates for this State to the Continental Congress shall be chosen annually by joint ballot of the Senate and House of Representatives, and may be superseded, in the mean time, in the same manner. If any person holding the office of Governor, Lieutenant Governor, Senator, Judge of the Superior Court, Secretary, Attorney-General, Treasurer-General, or Commissary-General, shall be chosen a member of Congress, and accept the trust, the place, which he so held as aforesaid, shall be considered as vacated thereby, and some other person chosen to succeed him therein. And if any person, serving for this State at said Congress, shall be appointed to either of the aforesaid offices, and accept thereof, he shall be considered as resigning his seat in Congress, and some other person shall be chosen in his stead.

XXIX.—No person unless of the Protestant Religion shall be Governor, Lieutenant Governor, a member of the Senate or of the House of Representatives, or hold any judiciary employment within this State.

XXX.—All commissions shall run in the name of the State of Massachusetts Bay, bear test and be signed by the Governor or Commander in Chief of the State, for the time being, and have the seal of the State thereunto affixed, and be attested by the Secretary or his Deputy.

XXXI.—All writs issuing out of the clerk's office of any of the Courts of law within this State shall be in the name of the State of Massachusetts Bay, under the seal of the Court from which they issue, bear test of the Chief Justice, or senior or first Justice of the Court, where such writ is returnable, and be signed by the Clerk of such Court. Indictments shall conclude "against the peace and dignity of the State."

XXXII.—All the statute laws of this State, the common law, and all such parts of the English and British statute laws, as have been adopted and usually practised in the Courts of Law in this State, shall still remain and be in full force until altered or repealed by a future law or laws of the legislature; and shall be accordingly observed and obeyed by the people of this State; such parts only excepted as are repugnant to the rights and privileges contained in this Constitution: and all parts of such laws as refer to and mention the council shall be construed to extend to the Senate. And the inestimable right of trial by jury shall remain confirmed as part of this Constitution forever.

XXXIII.—All monies shall be issued out of the Treasury of this State, and disposed of by warrants under the hand of the Governor for the time being, with the advice and consent of the Senate, for the necessary defence and support of the government, and the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

XXXIV.—The free exercise and enjoyment of religious profession and worship shall forever be allowed to every denomination of Protestants within this State.

XXXV.—The following oath shall be taken by every person appointed to any office in this State, before his entering on the execution of his office; viz. *I, A. B. do swear (or affirm, as the case may be) that I will bear faith and true allegiance to the State of Massachusetts; and that I will faithfully execute the business of the office of agreeably to the laws of this State, according to my best skill and judgment, without fear, favor, affection or partiality.*

XXXVI.—And whereas it may not be practicable to conform to this Constitution in the election of Governor, Lieutenant Governor, Senators and Representatives for the first year; therefore,

The present Convention, if in being, or the next General Assembly, which shall be chosen upon the present Constitution, shall determine the time and manner, in which the people shall choose said officers for the first year, and upon said choice the General Assembly then in being shall be dissolved and give place to the free execution of this Constitution.

By order of the Convention,

JEREMIAH POWELL, *President.*

Attest. SAMUEL FREEMAN, *Clerk.*

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